



# CONSTITUENT ASSEMBLY OF PAKISTAN DEBATES

Friday, the 6th January, 1950

## OFFICIAL REPORT

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## CONSTITUENT ASSEMBLY OF PAKISTAN

*Friday, the 6th January, 1950*

The Constituent Assembly of Pakistan met in the Assembly Chamber, Karachi, at Half Past Four of the Clock, Mr. President (The Honourable Mr. Tamizuddin Khan) in the Chair.

### MOTION *RE* THE INTERIM REPORT OF THE STATES NEGOTIATING COMMITTEE

**The Honourable Mr. Liaquat Ali Khan** (East Bengal : Muslim) : Sir, I beg to move :

“That the Interim Report\* of the States Negotiating Committee be taken into consideration.”

Sir, the report is a very clear one and is a very simple one. I do not think I have anything more to add to what has already been submitted in the form of a Report to this Honourable House.

**Mr. President** : I think there is a confusion.

**The Honourable Mr. Liaquat Ali Khan** : Sir, I do not want to move today the motion (No. 2) which is standing in my name. I will move it at some later meeting of the Assembly, if you will permit me to do so.

**Mr. President** : Motion moved :

“That the Interim Report of the States Negotiating Committee be taken into consideration.”

**Sardar Shaukat Hyat Khan** (West Punjab : Muslim) : I am very glad to see that millions of those people of Pakistan who have so far not been represented in this sovereign body, which is going to make their constitution should get a chance to come here and take part in the deliberations which eventually, we hope, will bring out the constitution of this country, but before I give my support to such a move I would like to know from the Prime Minister the mode in which these gentlemen who are going to represent the states are going to be sent to this Assembly. If by the way by which the Government of the State which is going to send these representatives here is meant these rulers, who had been anything but vehicles of oppression, who have been there only because they supported the foreign ruler whom they helped to displace the old Government of the people of India, then, Sir, I have got an objection and a very grave objection to this method, because if people leave it to the rulers of the States to send their representatives to this Assembly, then we will not only be accepting a very wrong precedent, but we will be putting a premium on treachery. To allow these despots who have ruled over the people, who have not only oppressed their people like the British Government oppressed us, but oppressed us even more, and those people, Sir, who fought with us shoulder to shoulder

\*Not included in the Debates but printed as Appendix to the C. A. P. Debates, dated the 30th December, 1949, on which date it was presented to the House.—*Ed. of Deb.*



[Sardar Shaukat Hyat Khan.]

to achieve Pakistan and who laid their lives and their wealth in danger in order to achieve Pakistan, they should be again left in the hands of those rulers to send their representatives and not those people who fought with us and took part in the liberation movement, I think, will be a great betrayal of the people of the States.

We in Pakistan have fought not only against the British Imperialism and that of the Hindu, but we have fought against all types of imperialism, all types of oppression and all types of despotism. Today if we permit the rights of the people of those States, who are the flesh of our flesh and the blood of our blood, if we are going to permit them to have their rights of representation cut down and their rights to be taken over by those rulers, we shall be betraying that revolution for which we fought with such great work and such great enthusiasm. Sir, on the one hand, we very rightly not only in this country, but to the world proclaim that in the case of Kashmir we do not accept what Hari Singh did in acceding to India and we demand that the people of Kashmir should be given the right to vote and express their own wishes publicly so that the world may know which side the people of that State want to accede to. On the other hand, if we ignore this right of the people in the case of the States which have acceded to Pakistan, *i.e.*, State of Bahawalpur, States of Khairpur and Baluchistan and the Frontier States, we shall be going against those very principles for which we are fighting in the United Nations today. I am sure, Sir, that would not be the desire of the Government which is led by no other person than Mr. Liaquat Ali Khan, who was the leader of the movement of freedom and who fought for Pakistan amongst others. I am sure this idea of letting the rulers still rule those people, still oppress those people who led the freedom movements in the States, still fighting against the Muslim League there, if they are going to be given the power even to send the representatives of those people here, we will be taking away a great human right, the birth right of the people of the States. I do not think this Assembly or any Assembly in the world has got the right to deprive the people of the States of their basic human rights and their rights to vote and send their representative where their constitution is to be built. I hope, therefore, Mr. Prime Minister will be good enough to declare publicly that he stands by his own speech which he made at the time of the Objectives Resolution, where he said that he is against all systems of divine right of the King and divine rights of the rulers of the States. I hope, Sir, he will stand by it and declare today that he is against divine rights; he is against imperialist rights; he is against not only British imperialism, Hindu imperialism, but he is just as much against Muslim imperialism, if that means the suppression of the rights and the civil liberties of the people.

**Shri Dharendra Nath Datta** (East Bengal : General) : Sir, I rise to give my support to the observations that have been made by my previous speaker, specially because the other day there was a declaration made in this House by no less a person than the Honourable Prime Minister that the Ruler of the Bahawalpur State is the constitutional ruler now, but, Sir, it appears from the report that has been published in the DAWN that the reforms that had been introduced in the Bahawalpur State were just like Minto-Morley Reforms.

**The Honourable Mr. Liaquat Ali Khan** : No, Sir.

**Shri Dharendra Nath Datta** : It was stated that diarchical form of Government . . . .

**The Honourable Mr. Liaquat Ali Khan :** That is not Minto-Morley Reforms. It appears that the Honourable Member has not studied history.

**Shri Dhirendra Nath Datta :** It was stated that diarchical form of Government would be established there and that some subjects would be transferred and that Ministers would be in charge of those transferred subjects and they would be made responsible to the Legislature. The Ruler would appoint such Ministers who would be made responsible to the Legislature and there would be ministers in charge of reserved subjects who would not be responsible to the people, and it has been said that the budget will be placed and the members of the Legislative Assembly will have the right to discuss, but will not have the right of voting. . . .

**The Honourable Mr. Liaquat Ali Khan :** Who said that ?

**Shri Dhirendra Nath Datta :** That is a report that has been published in DAWN. That is with regard to the constitutional reforms said to have been introduced by the Ruler so far as this State is concerned.

Then, Sir, the States of the Frontier Province will not send their representatives but the States of Baluchistan will send their representative. But, the whole question is as to who will elect the representatives—whether the Rulers of the States will send the representatives or the people shall elect the representatives.

With regard to Les Bela, one of the most important States of Baluchistan, as you have seen from the report, I wish to point out that the area of the State is 7,043 sq. miles and the population is 167,073. We got a report—I do not know whether any improvement has been made—that a representation was made to the Honourable the Minister for Foreign Affairs, Government of Pakistan, in the year 1948. I do not know whether any improvement has been effected. This report was submitted to the Honourable the Minister for Foreign Affairs by the Secretary, on behalf of the Les Bela State Muslim League Party. Les Bela, as you know, is a very important State in Baluchistan, lying on the border of Karachi, the capital of Pakistan, with a wide sea coast—about 250 miles—and a large number of people live there. In that report it has been said that the Jam Sahib has now started widespread arrests throughout the State. The arrested political prisoners are forced to hard labour ; their property confiscated and family members arrested and were put in *kath*—a wooden instrument so made as to make a person motionless, the legs being locked and then thrown in scorching sun for hours. This is the manner of oppression said to be resorted to by the Ruler of that State in respect of people who have fought for the freedom of the country, and who have fought for Pakistan and who are no other than members of the Muslim League Party.

Then, Sir, the whole administration, it is stated, is confined to a few illiterate persons, namely, the Jam Sahib and his Wazirs.

The Rulers themselves are the worst oppressors and the people have not tasted freedom. If the Rulers send representatives to this House, they would not be proper representatives. It is better that this is made clear. The report is silent on that point. We want to know from the Honourable the Prime Minister their method of sending representatives to our House who will be here to frame the constitution of our State. This is very necessary. If the Rulers themselves send the representatives, they cannot be called the representatives of the people living in the States. I hear that Bahawalpur is the only progressive State. In other



[Shri Dharendra Nath Datta]

States people are living under feudal lords who themselves oppress the people and do not allow the people to agitate for the freedom of the country.

Sir, I beg to submit that the first thing that we want to know is whether the representatives will be elected, and on this the report is silent. Unless we know that, we cannot give any support to this report. With these few words I whole-heartedly support the observations made by the previous speaker.

**Mian Muhammad Iftikharuddin** (West Punjab : Muslim) : Mr. President, Sir, it is a very important document that Mr. Liaquat Ali Khan has presented to the House this afternoon. I think if we go into the implications of this document, many of the promises that we made to our people, many of the pledges that we gave to our country, and many of the principles on which we led our struggle for freedom, have been betrayed. The people with whom our representatives have been negotiating do not and did not represent anybody. They are not only not the representatives of the people of the States, they are, in fact, the enemies of the people of those States who have really kept these lakhs and lakhs of humanity for the last 200 years under despotic rule ? Who joined the alien invaders in overthrowing the indigenous rule in this country ? In accepting them as the representatives of the States, we are legalising all their past treacheries. Sir, but for these traitors this country would have had a different history. This sub-continent, inhabited as it is by 400 million people and gifted with all the natural resources that one could desire, would have been one of the leading areas of the world. Instead of bringing them before the tribunal of the people for their crimes of the past (unfortunately their ancestors cannot now be tried)—our leaders sit across the same table to talk with them. It may be said that expediency demanded that our leaders should negotiate with the Rulers of the States. I ask, after 2½ years, is there a man in Pakistan who can say that had it not been for the Rulers, the people of those States would have opposed joining Pakistan ? We should have confidence in our people—they are not an alien people. They are a part of ourselves. The boundaries that divided us, were the boundaries drawn by the British in accordance with the measure of treachery that each one of the Rulers of the States was guilty of at the time. The smaller the treachery, the smaller the State ; the greater the treachery, the greater the State. These boundaries have no ethnological, geographical, cultural or any other justification whatsoever. Therefore, to think that the people of the States would not have joined or acceded to Pakistan had it not been for the Rulers, is to pay a compliment to the traditional traitors and at the same time to betray a lack of confidence in your people. By coming to an agreement with them, we have legalised and condoned their past crimes.

Sir, by negotiating with these rulers we have committed another great sin. We have accepted the barbarian and antediluvian principle of people being the property of individuals. That is not only undemocratic, it is also un-Islamic. We passed the Objectives Resolution a few months ago and boasted to the world that we were to build the State on a new basis. It is a betrayal of that resolution. It is going back thousands of years. It may be said that before we enter into the important task of framing the new constitution, it is necessary to have the representatives of the States. Associating these people in the constitution making is a crime against the people. Today you cannot

say that it is another country or men of another region who are keeping them down. Today the enemies of the States' people are the rulers. The battle today is against our own countrymen—the rulers. Instead of helping the people in their struggle against their oppressors, and telling the world what we meant when we passed the Objectives Resolution and instead of going on to create a new, greater and more perfect democracy, we, after 2½ years in the year 1950, are bringing in a motion before this House which even 5,000 years ago could not have been brought before the village panchayats. It is important for the people of Pakistan to realise what we mean when we say that we are going to implement the Objectives Resolution. This is how we are going to implement that resolution. I wish the leaders showed some confidence in their people when they went to the States. The Honourable Prime Minister went to a State and made an unfortunate speech before the people, who for the first time, after centuries of slavery, were expecting to see a real representative of the people. He did not say, "I have brought liberty and freedom for you". The Prime Minister said 'first deserve then desire'; as if these debauchees who cannot rule over their own bodies deserve to rule over lakhs of people. People according to the Prime Minister do not know better than these rulers to rule themselves. I am sure the Honourable Prime Minister did not mean this when he said those words. I am definite that we should be able to tell the world that Pakistan really is a progressive and revolutionary State. Our claim was to be that there is no State of such progressive character. If that was so, and I do hope that it will be our claim, it is necessary for us, particularly at this critical stage to make this clear. I would not have warmed up like this for the sake of cheap rhetoric. I feel strongly because this measure gives a very wrong impression to the people of the world with regard to what we wish to do with Kashmir. I am prepared to argue it on any forum that nothing can strengthen our claim, nothing can strengthen our fight for the freedom of the Kashmiri people than that we show to the world that we stand on absolutely democratic principles and that we do not just profess democratic principles but also practise them, because other claimants also profess to be protagonists of democracy and we know what have they done. We know what they mean by democracy. Let us show the world that we not only profess but also practise and believe in democracy. In passing a measure like this, I fear we still have some hope that Maharaja Hari Singh will change his mind and decide that Kashmir is to accede to Pakistan. No matter what Hari Singh did or may do in future, it is absolutely clear that it is for the people of Kashmir to decide where they are to go. It is for their self-determination . . . .

**Mr. President :** You cannot go into the details of the Kashmir question. Moreover you are giving the same arguments as were used by Sardar Shaukat Hyat Khan.

**Mian Muhammad Iftikharuddin :** Sir, I am confining myself to the point. I was arguing that at this time this measure will create misunderstanding and will weaken the cause for which the people of Kashmir and ourselves are fighting. I submit that putting before the House this measure in 1950 is a great insult to the intelligent people and in particular to the honesty and integrity of the House. To talk of individuals being the masters of the people, to put it mildly, is madness. Instead of putting before us the Instrument of Accession on which this measure is based, or this interim report, I think it would have been far better if they had been put as a museum piece in Mohenjo Daro where



[Mian Muhammad Iftikharuddin]

the Honourable Prime Minister was pleased to go a few days ago. In saying so, I am perhaps insulting the old worthies of 5,000 years ago because they too would not have accepted the maxim of people belonging to individuals. With these words, Sir, I press upon the House, that before accepting the report, it should pay due consideration to the important implications of it.

**The Honourable Mr. Liaquat Ali Khan :** Sir, I do not know whether the speeches that have been made by Honourable Members were based on ignorance or on malice. I shall be charitable and say that they were based on ignorance. The Honourable Member who has just sat down said that he had not been given a copy of the Instrument of Accession.

**Mian Muhammad Iftikharuddin :** I never said that. I said that the negotiations that were made were based on the Instrument of Accession.

**The Honourable Mr. Liaquat Ali Khan :** Anyhow, I think every Honourable Member of the House heard him saying that. He forgot that it was in the last session or perhaps earlier that copies of the Instrument of Accession were placed on the Table of the House.

Now, Sir, let us examine the position of the States dispassionately. By calling the Rulers as debauchees or their ancestors as traitors we do not get anywhere. If we were to look at the ancestors of some others, we will find that they were no better than the ancestors of these Rulers. We are not really concerned with all this today. We have to examine the legal and the constitutional position of the States. On the 15th August 1947, in accordance with the Indian Independence Act, which has conferred freedom on us in Pakistan, these States became completely independent. You had to deal with them as independent Sovereign States. Let us not forget that and let us not be carried away by passion or sentiment or anything else. It was in accordance with that Act that the Governments of India and Pakistan had to negotiate with these States because it was provided in the Government of India Act that the States could accede with regard to certain subjects to either of these two Dominions and to that limit their sovereignty or their freedom was curtailed. All the States of Pakistan acceded to the Federation of Pakistan with regard to defence, foreign affairs and communications. It means that so far as these matters or matters connected with these subjects are concerned, the States have surrendered their sovereignty to the Federation of Pakistan and they have agreed that whatever laws are passed by the Federal Legislature they are applicable in these States. This House appointed a Committee to negotiate with the representatives of these various States. Now, it is no use talking in the air or living in a vacuum. In all these States the authority in the Ruler and, therefore, the Government of Pakistan has to negotiate with the Governments of these States. I would like to point out that since Pakistan has come in there has been a great advance in the States. There was no State in Pakistan on the 15th of August, 1947, where there was any form of democratic institution. There were no local bodies, no legislatures and nothing of the kind. But in Bahawalpur today you have an Assembly functioning according to the Act of 1922, a stage to which the people of this sub-continent had reached after having had different experiments in democratic forms of government and institutions for many many years.

**Mian Muhammad Iftikharuddin :** That is Churchill's line.

**The Honourable Mr. Liaquat Ali Khan :** My Honourable friend may talk, but let me tell him that by talking you do not solve problems. If we are going to progress, we have got to progress safely. I do not believe in disruption ; I believe in construction. And yet unfortunately there are others who claim to be constructive, though they have never even heard the word ' construction '. They only know destruction. They believe—may be they are right—that it is only by destroying that you can construct. Well, we have seen what has happened in other countries where this principle has been followed. Anyhow, I was saying that these States are advancing democratically. Now, what was it that the Pakistan Government had to do ? Honourable Members who have spoken before me have said that these States should not be there ; they should be wiped out ; their Rulers and their ancestors were traitors and they were enemies of the country and they were this, that and so on. It has been pointed out to me that the world will laugh at us if today we were to have representatives from these States in the Constituent Assembly.

**Mian Muhammad Iftikharuddin :** In this manner.

**The Honourable Mr. Liaquat Ali Khan :** Would the world applaud you if you had to march your troops into these independent States and take away the freedom of these States ?

**Mian Muhammad Iftikharuddin :** Plebiscite will give self-determination to the people.

**The Honourable Mr. Liaquat Ali Khan :** Who is to demand ?

**Mian Muhammad Iftikharuddin :** Give self-determination to the people as we demand for Kashmir.

**The Honourable Mr. Liaquat Ali Khan :** My Honourable friend is mixing up the issue of Kashmir. I wish he would study matters before he opens his mouth in this House. The Kashmir issue has nothing to do with the question of the representation of the States here. In Kashmir the question is that of accession ; but these States have already acceded. This report was published several days ago. No protest has come from any one of these States and no member of this Constituent Assembly has thought that what is proposed in the report is not progressive enough or is against the wishes of the people. It is no use sitting here and talking in that way.

**Mian Muhammad Iftikharuddin :** If the people of these States protest, they will find themselves in the jail.

**The Honourable Mr. Liaquat Ali Khan :** I wish some others would find themselves in jail.

**Sardar Shaukat Hyat Khan :** We would like them to be there.

**The Honourable Mr. Liaquat Ali Khan :** Sir, we are really getting away from the point. What I was saying is this. We negotiated with these States and we found that there were no democratic institutions in a number of them and you cannot have overnight this form of democracy which is in Pakistan today. So, the Committee thought that the best way of getting representation would be through the Governments of the States. Now, in the Governments of some of these States there are representatives of the people also as Ministers. Therefore, if the House wants to give representation to these States, I submit that this is the only practical way in which you can give representation to these States in the Constituent Assembly. There is no other practical way. If you.



[The Hon. Mr. Liaquat Ali Khan]

want that the States should be associated with the framing of the constitution and the work of this Constituent Assembly, then this is the only practical way. But if you think that there can be some other way, then these States cannot be represented in the Constituent Assembly till you have finished the framing of your constitution. And let me tell you that you will not solve the problem of the States by using the type of language which has been used by some of the Honourable Members here today. The rule of *Lathi* should not be resorted to by anyone who has any regard for decency and morality. You can do whatever you like just as—I won't name the country—another country did in the case of a State by marching your troops into the States. Well, I am not prepared to do that because I think that would be placing ourselves in the wrong (*interruption*) absolutely. I have no doubt that considering the way in which the States are realizing the change in time they will, each one of them, come up sooner than you expect to the same level of democracy as you have in the rest of Pakistan.

Mr. Dutt read out some reports from somewhere, which he took as gospel truths. All that I would say is this : that those reports are absolutely false ; there is no truth in them. And let me tell him that the Muslim League that used to exist in the States before was not a branch of the Muslim League which is represented in this House. So, therefore, by taking the name of the Muslim League with regard to this report that my friend read out to the House he is not giving that report any sanctity.

Sir, the Honourable Sardar Shaukat Hyat Khan asked me to declare publicly or repeat what I had said when I was moving the Objectives Resolution. I do not have to repeat ; only those people repeat whose word cannot be relied upon. I have so far, thank God, in my public life of nearly 27 years, never said anything which I had to take back and, therefore, there is no question of repeating what I have said on any occasion—not only on the occasion of moving the Objectives Resolution—I stand by that for all times. I never say things in the hope of getting some headline in a newspaper, or in the expectation of making my next election secure by deceiving people by tall talk and fiery words. I never do that. I don't have to do that ....

**Shri Dharendra Nath Datta :** Mr. President, Sir, is the Honourable the Prime Minister in order in imputing motives to others ?

**Mian Muhammad Iftikharuddin :** And is he speaking to the point ?

**The Honourable Mr. Liaquat Ali Khan :** I am only laying down a general statement of facts. There is no imputation of motives to anybody. I did not say that you, gentlemen, did it. If the cap fits you I cannot help it. I was only saying that for me it is not necessary to repeat. Why should my friend think that I was referring to him ?

**Shri Dharendra Nath Datta :** You said that to point out that others do it.

**The Honourable Mr. Liaquat Ali Khan :** But supposing I said others do it, is it not a fact that some people do it ? Is it not a fact ? I am not saying that you do it, but if you think that it is a case of a guilty conscience then I can't help it.

**Shri Dharendra Nath Datta :** The Honourable Member does not understand what he is saying.

**The Honourable Mr. Liaquat Ali Khan :** I perfectly understand, because I do not suffer from high blood pressure.

Sir, I do not want to detain the House much longer. Whatever may have been the position in these States before, I can assure the House that things are moving rapidly in a number of these States and I have every hope that with sympathy and firmness we will be able to bring up these States to the same level of democracy as obtains in the rest of Pakistan by the time you have your new Constitution, but not by indecent methods, not by talking in the language in which some of the Members have talked. It is no use our wasting time on what has happened in the past. We must look to the future as it is the future that matters, and not the past which is dead and buried. (*Applause*).

**Mr. President :** The question is—

“That the Interim Report of the States Negotiating Committee be taken into consideration.”

The motion was adopted.

**Mr. President :** The House stands adjourned till 5-35 P.M. for *Asr* prayers.

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(The House then adjourned till 5-35 P.M. for *Asr* prayers.)

The Assembly re-assembled after *As* prayers at 5-35 P.M. Mr. President (The Honourable Mr. Tamizuddin Khan) in the Chair.

#### ALLOTMENT OF SEATS IN THE CONSTITUENT ASSEMBLY TO THE STATES OF BAHAWALPUR, KHAIRPUR AND BALUCHISTAN.

**The Honourable Mr. Liaquat Ali Khan** (East Bengal : Muslim) : Sir, I beg to move :

“That this Assembly having considered the Interim Report of the States Negotiating Committee, do hereby resolve—

- (1) that the States of Bahawalpur and Khairpur be allotted one seat each in the Constituent Assembly of Pakistan and that the Governments of these States be asked to nominate their respective representatives ;
- (2) that all the States of Baluchistan be allotted one seat in the Constituent Assembly of Pakistan and that they be asked to jointly nominate one representative agreed to by the Governments of these States.”

**Mr. President :** Motion moved :

“That this Assembly having considered the Interim Report of the States Negotiating Committee, do hereby resolve—

- (1) that the States of Bahawalpur and Khairpur be allotted one seat each in the Constituent Assembly of Pakistan and that the Governments of these States be asked to nominate their respective representatives ;
- (2) that all the States of Baluchistan be allotted one seat in the Constituent Assembly of Pakistan and that they be asked to jointly nominate one representative agreed to by the Governments of these States.”

**Mr. M. H. Gazder** (Sind : Muslim) : Sir, I want to request the Honourable Mr. Liaquat Ali Khan to make one point clear. It is said in this report that these representatives will have the right to sit, speak and vote in the Assembly. While going through the Instrument of Accession I find that they have acceded for certain subjects only. Now we will be legislating here in the Legislature for all sorts of things. I want to know whether the representatives of these States will have the right to vote or not on legislation which does not affect their territories.



**The Honourable Mr. Liaquat Ali Khan :** Sir, the position is quite clear. It is recommended here that they will be full-fledged members of the Constituent Assembly and will have a right of vote. In the Instrument of Accession, if my friend has read it, he would find that it is not only with regard to those subjects which are mentioned there that any legislation passed by the Federal Legislature will have application to the States, but with regard to other matters also, with the consent of the States any legislation will have effect in the States. I think if their representatives were here it will be easier to get their consent with regard to all the matters which we may think are necessary that legislation should apply to the States as well.

**Mr. President :** The question is :

"That this Assembly having considered the Interim Report of the States Negotiating Committee, do hereby resolve—

- (1) that the States of Bahawalpur and Khairpur be allotted one seat each in the Constituent Assembly of Pakistan and that the Governments of these States be asked to nominate their respective representatives ;
- (2) that all the States of Baluchistan be allotted one seat in the Constituent Assembly of Pakistan and that they be asked to jointly nominate one representative agreed to by the Governments of these States."

The motion was adopted.

#### THE GOVERNMENT OF INDIA (AMENDMENT) BILL

**The Honourable Mr. Liaquat Ali Khan (East Bengal : Muslim) :** Sir, I beg to move :

"That leave be granted to introduce the Bill to amend the Government of India Act, 1935 (insertion of new Section 306A)."

**Mr. President :** The question is :

"That leave be granted to introduce the Bill to amend the Government of India Act, 1935, (insertion of new Section 306A)."

The motion was adopted.

**The Honourable Mr. Liaquat Ali Khan :** Sir, I introduce the Bill.

(After a pause.)

**The Honourable Mr. Liaquat Ali Khan :** Sir, I beg to move :

"That the Bill to amend the Government of India Act, 1935 (insertion of new Section 306A), be taken into consideration."

Mr. President, it is a very simple Bill. In the Statement of Objects and Reasons it is laid down as to why it is considered desirable that the name of West Punjab should be changed to 'Punjab'. I do not want to waste the time of the House. It is not only desirable, but it is necessary that West Punjab should be named as Punjab, to which that Province is perfectly, legally and morally entitled.

**Mr. President :** The question is :

"That the Bill to amend the Government of India Act, 1935 (insertion of new Section 306A), be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Mr. Liaquat Ali Khan :** Sir, I move :

“That the Bill be passed.”

**Mr. President :** The question is :

“That the Bill be passed.”

The motion was adopted.

### THE INDIAN INDEPENDENCE (AMENDMENT) BILL

**The Honourable Mr. Liaquat Ali Khan** (East Bengal : Muslim) : Sir, I beg to move :

“That leave be granted to introduce the Bill to amend the Indian Independence Act, 1947.”

**Mr. President :** The question is :

“That leave be granted to introduce the Bill to amend the Indian Independence Act, 1947.”

The motion was adopted.

**The Honourable Mr. Liaquat Ali Khan :** Sir, I introduce the Bill.

(After a pause.)

**The Honourable Mr. Liaquat Ali Khan :** Sir, I beg to move :

“That the Bill to amend the Indian Independence Act, 1947, be taken into consideration.”

Here again, Sir, by means of this Bill it is intended to change the name of West Punjab into Punjab and this Bill is for the purpose of making the necessary amendment in the Indian Independence Act.

**Mr. President :** Motion moved :

“That the Bill to amend the Indian Independence Act, 1947, be taken into consideration.”

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Mr. Liaquat Ali Khan :** Sir, I beg to move :

“That the Bill be passed.”

**Mr. President :** The question is :

“That the Bill be passed.”

The motion was adopted.

### THE GOVERNMENT OF INDIA (SECOND AMENDMENT) BILL

**The Honourable Mr. J. N. Mandal** (East Bengal : General) : Sir, I beg leave to introduce the Bill to amend the Government of India Act 1935 (amendment of Sections 16, 33, 42, 102, 220, etc.). In moving to introduce the Bill, Sir, I would like to submit that clause 7 of the printed Bill may be taken as deleted. I do not propose to incorporate clause 6 in the Bill.

**Mr. President :** Clause 6 or 7 ?

**The Honourable Mr. J. N. Mandal :** Sir, clause 7.

**Mr. President :** I think that may come at a later stage, when you may say whether that clause should be incorporated in the Bill or not. I think you have to introduce the Bill as it is published here.

**The Honourable Mr. J. N. Mandal :** Sir, I introduce the Bill.

(After a pause.)

**The Honourable Mr. J. N. Mandal :** Sir, I move :

"That the Bill to amend the Government of India Act, 1935, be taken into consideration."

This Bill proposes to amend certain sections of the Constitution Act. It has been considered necessary to meet the new situation that has arisen on account of our achieving independence. The clauses of the Bill are almost explanatory, but still I may give a summary of the respective clauses.

Clause 2 intends to amend sub-section (2) of section 16 of the Constitution Act. The Advocate-General of Pakistan under sub-section 2 of section 16 has the right of audience in higher courts of Governor's province, Chief Commissioner's province and acceding States. Hence it is necessary to give him that power of audience in the Chief Court of Sind which has got to do a dual function, *i.e.*, it is the Chief Court of the Province of Sind as well as the Chief Court of the Capital of the Federation.

Clause 3 aims at amending Section 33 which deals with the salaries of Ministers. Now after the appointment of Deputy Ministers it is intended to make their salaries a charge on the revenues of the Federation and it has been given retrospective effect for the reason that their salaries from the first day of the current financial year have been accounted for as such.

Clause 4 is an important amendment. It seeks to amend Section 42. After the setting up of the dominion and the Federation, Governor-General's ordinance has the same force and duration as a legislation of the Federal Legislature. For the last two years it was necessary that Governor-General should possess such extraordinary powers. Now it is considered that that power may be curtailed. Hence an ordinance promulgated by the Governor-General henceforth will have a limited duration and, that is, for six weeks after the reassembly of the Legislature or if any resolution disapproving the ordinance is passed in the Legislature, then after the passing of such a resolution, whichever is earlier.

Clause 5 intends to put together at one place the powers relating to emergencies and to complete the statements of those powers.

Clause 6 aims at amending proviso (b) to sub-section (2) of section 220 by giving the Federal Court the jurisdiction to report on the removal of a High Court Judge. Previously this power was exercised by the Judicial Committee of the Privy Council. Now, as we have given final jurisdiction to our Federal Court in civil appeals, it is in the fitness of things that the jurisdiction of the Federal Court should be given in this respect also, namely, the removal of a High Court Judge on the recommendation of the Government.

Clause 8 proposes to insert two new sections, namely, sections 232 and 233. At present it is uncertain whether the Governor-General has



got the power and authority to appoint Commanders-in-Chief of the Army and to provide for their salaries and allowances and to commission officers of the Army. The new proposed sections 232 and 233 empower the Governor-General to appoint chief commanding officers and to fix their salary and allowances. Previously these two sections were in the old Government of India Act. But when it was adapted, these two sections were omitted. This power, according to the previous Government of India Act, was enjoyed by His Majesty and it is somewhat uncertain whether the Governor-General actually possesses these powers and authority. These two sections empower him in this respect.

Clause 9 aims at amending Section 290A. This section was inserted to set up the Capital of the Federation. But no provision was made to extend the executive authority of the Federation to the Capital. Neither was there any provision that an order passed under Section 290A should be subject to the control and supersession by the Federal Legislature. There was no provision that an order under that section could authorise the expenditure from the revenues of the Federation. The addition of two clauses to Section 290A would now meet the objectives.

Clause 10 is only a consequential amendment. While in Section 22 of the Constituent Act, "Mr. President" was substituted in place of "Mr. Speaker" and "Mr. Deputy President" was substituted in place of "Mr. Deputy Speaker", it became necessary to amend item 41 of List 1 of the seventh schedule of the Government of India Act, 1935. Now the proposal is that for the words "Speaker" and "Deputy Speaker" the words "President" and "Deputy President" may be substituted.

**Mr. President :** Motion moved :

"That the Bill to amend the Government of India Act, 1935, be taken into consideration."

**Sardar Shaukat Hyat Khan** (West Punjab : Muslim) : Sir, in speaking on this Bill I am inspired by a motto which was taken by a small party of 21 individuals who first started the fight for freedom in the Punjab, and the Punjab Muslim League Party in the Assembly. In the Khizar regime we took a motto and that motto has inspired me to speak today. That was a phrase from that great dreamer of Pakistan—Allama Mohammad Iqbal *Rahmatullah Aleh* :

*"Aaeen jawan mardan haq goee wa baibaki*

*Allah ke shairon ko aati naheen robahi."*

"Truthful and dauntless are the brave ;

For lions cannot, like foxes, behave."

While looking at this Bill I find that in clause 4 a very healthy—ordinarily a very healthy—proposal has been made that all ordinances which the Government may deem necessary to promulgate in the absence of this House, should be brought for the consideration of this House within six weeks of the first session that is held after the promulgation of that ordinance. But, Sir, the whole charm of this democratic clause, the whole charm of this so-called section for giving the power to Government, has been ruined by a very small and inconspicuous lacuna that is there in Section 4. It has been said that an ordinance promulgated under the section after the 31st day of December, 1949, shall be brought before the House. Sir, this does not take into account those ordinances which have been passed before the 31st December, 1949. There may be some essential ordinances amongst them. There

[Sardar Shaukat Hyat Khan]

may be some really necessary laws that have been promulgated by the Governor-General. But there is one ordinance which as long as I live and as long as I am a representative of the Punjab, I shall oppose to be placed on the Statute Book of this country. I refer to the Public Safety Ordinance which has been promulgated before the 31st December, 1949, and if this clause is passed as it is, it will mean that the ordinance will become the law of the land without its ever coming before the true representative of the people. Sir, by bringing ordinances of that nature, ordinances by which the civil liberties of the people—the very essence of life and democracy—is being curtailed, this Government does not consider it fit to bring them before its own representatives for a look and giving them their views on the subject. Sir, perhaps my friends sitting on those benches have forgotten that in days not very long past, when the people of the Punjab were oppressed by a Public Safety Ordinance—a Safety Ordinance which did away with all that was democratic—some of the leaders now sitting on the Ministerial benches gave us instructions to go to the Punjab and fight against those ordinances. Sir, I do not think that anyone can forget those days when all the Muslim Leaguers of the Punjab—not one, not one hundred, not one thousand, but in hundreds of thousands—went into British jails to fight against the Public Safety Ordinance. That was the time when our mothers, our sisters and daughters went in procession and were lathi charged by the police. They bravely faced all types of ignominies. This Government which is sitting there, their members were with us in jail because they were fighting against the Public Safety Ordinance. Today is it not shameful that we should only be perpetuating and giving a fresh lease of life to that ordinance—a law against which our own leaders supported us in the fight; against which some of the ministers went into jails and for fighting which we were applauded not only by our Prime Minister but also by no other person than Quaid-i-Azam himself. He paid glowing tributes to the Punjabis for fighting the Public Safety Ordinance and people went back to the Punjab inspired by his words. Today, Sir, that revolutionary party—I can excuse some of them because they were not there to fight for freedom—but those people, those revolutionaries, those great torch-bearers of liberty, who fought for liberty of the people—they should allow such a law to remain on the Statute Book. It is a mark of shame for all of us. Why not bring such an ordinance before the House of which people should make use. That ordinance today not only is a breach of faith of the Muslim League and principles of Muslim League under which we fought in the fight for freedom, but that ordinance today is a great disobedience of the orders of the electorates. How I make that statement? The three provinces, province of Bengal, province of Punjab and province of Sind have passed resolutions in the Muslim League Council that this ordinance must be removed and Public Safety Ordinance must go. Those electorates, that is the Muslim League Council, is not responsible to the All-Pakistan Council. The All-Pakistan Council is a body to which our members of the Government are responsible. Sir, if the electorates today call upon us to resign I think it is our duty to resign and make way for others. If today they call upon the Government to remove that law of oppression which was started by Mountbattens and Linlithgows, and ask them to remove that law, it would be only fair that my honourable friends sitting on those benches should get up and say that not only we will bring that ordinance before the House but we will also see that it is removed from the Statute

Book, because it only marks the beauty of the constitution. Today that ordinance has been as a vehicle of oppression. The Governments of various places are using such ordinances just to put their critical opponents behind the bar. It was the freedom for which we fought. Is that the reason why we were called upon to work together and to take the banner of peace? Today the basic principles of civil liberties are being hampered by means of an ordinance where people cannot be brought before a court of law for justice. Why should we not first put the executive and judiciary apart and see that such cases should be given to those people who can best award the judgment in such cases. Sir, it will be not only removing a great needed blemish from the records, it will not only be acceding to the wishes of the people of Pakistan, but it will also be a great political step forward. Some people may say that certain constitutions are created which cannot be dealt with unless an ordinance is there. To those critics I say, pass any sort of laws that are necessary to do away with the enemies of the State, but for God's sake do not let an ordinance remain on the Statute Book where innocent people can be put behind the bar without trial. Such unhealthy and such unjust provisions should never be allowed to remain on the Statute Book of Pakistan.

Sir, I would not like to name very many people who are being oppressed under this ordinance, but I will just mention a few, who fought for freedom, for winning the referendum in the Frontier, in Sind, who fought for the fight of the Muslim League in Bengal. Those people who fought under the orders of our leaders are sitting behind the bar without trial, without justice. They fought for maintaining the glory of their organisation. I would, therefore, request the Honourable Prime Minister and the leaders, who applauded our action in the Punjab, who applauded our action in the Frontier and who told us that Punjab has won the first battle of freedom for the Muslim League. Our women and children faced the gas squads and lathi charge. I am sure if such ordinances are removed, it would enhance the prestige of the House and enhance the confidence that the people have in the leadership of the Muslim League.

**Mr. Nur Ahmed (East Bengal : Muslim) :** Sir, I had no mind to participate in the discussion, but the great sermon made by the learned member from Punjab on us has induced me to rise up and say a few humble words in support of the policy pursued by the Government of Pakistan. Sir, I am very much sorry to say that the honourable member who has just sat down depicted the Government of Pakistan in a most reckless way that the Government is oppressing the people and interfering with the liberties of the people by means of ordinances. Sir, my honourable friend has referred to the sacrifices made by the League leaders and the masses of Pakistan for winning this great land of Pakistan. But I want with all respect to ask him, does he want that Pakistan which has been acquired after great sacrifice of the masses of Pakistan should be allowed to be destroyed by anarchy and disruption. As you know, Sir, Pakistan is surrounded by enemies on all sides and it should be right and proper that such ordinance should be there to check the activities of our opponents, the disturbing and disintegrating elements who have already raised hydraheads in Pakistan to scotch the infant State of Pakistan. My honourable friend should remember, from what was said that the mantle after our great leader, the Quaid-i-Azam, has fallen on the Prime Minister of Pakistan to preserve and maintain the integrity, honour, dignity and independence of Pakistan. It is the

[Mr. Nur Ahmed]

duty of the Government to see that the forces inimical to Pakistan—disruptive elements—should be kept under control so that peace and order may be maintained in Pakistan and Pakistan may grow from strength to strength and become stronger day by day for the best interests of the people of Pakistan. What are the present conditions with which Pakistan is confronted today. Is it not in a state of semi-war with her biggest neighbour? Is it not a fact that its western neighbour has practically declared a cold war? Sir, under these emergent circumstances, if our great leader has done his duty and his Government has done its duty at this critical hour for Pakistan by maintaining peace and order in the country and keeping its people in an undisturbed peaceful atmosphere, so that they might prosper has he done any wrong? Has he suppressed the spirit of the people of Pakistan? Pakistan is a very friendly State notwithstanding the chaos that is going on round about it. Pakistan has been able to steer its way clear of all these difficulties and the stumbling blocks in its way. That being the position, I cannot understand how a lover of Pakistan can say that Pakistan is an engine of oppression. Nobody can use that expression if he takes stock of the achievements that it has attained during the last two years. We cannot but admire the achievements that go to the credit of the Government of Pakistan. The State of Pakistan has been brought into existence during this short period of two years from a mere scratch. As soon as Pakistan was founded there was this vast migration of 70 lakhs of Muslims to the infant State. Pakistan gave shelter to these people and fought for them. Pakistan is becoming more and more powerful every day. Nobody can deny that the State of Pakistan is based on the fundamental principles of Islam. It is a democratic State and every citizen of it is as free as anything can be. We believe that Islam is the most democratic religion in the world. The other day we read the story of a Jew who had come from the Israel part of Palestine to the Arab part of Palestine. When he was asked to go to his own State he was about to commit suicide. He asserted that the Arabs were more happy and free than the people of the Israel State, and so he had come to Arab Palestine to live and die with the Arabs. This is an event which occurred only recently. History is full of incidents where members of other religions have welcome Islamic rule than that of their own co-religionist's rule and have then lived much happier lives in Islamic States. The struggle of Pakistan is to give a clear indication to the world that the Islamic principles are the best. To end the present day inter-Dominion conflicts and feuds Pakistan is aiming to establish a truly democratic State wherein freedom, liberty and fraternity will have its full play. Pakistan is marching steadily towards high ideal over submerged rocks in a tumultuous sea.

Sir, I want to make it clear to the House that I am not a lover of ordinances or the rule by ordinances. These ordinances are not liked by anybody. It is only to avoid the delay that must necessarily occur if the Assembly is to be called to pass certain legislation that these ordinances are promulgated to meet the emergencies that have confronted Pakistan from time to time. With all respect I would ask my learned friend what is there to debar him from bringing amendments after amendments to amend these ordinances? But let me tell him that if all these ordinances that have been promulgated are removed there will be disorder and confusion in the country. That we cannot tolerate. In my opinion, my learned friend should congratulate the



Government for bringing this amendment before the House. After this amendment is made the ordinances will not be made permanent for all the time and will end within six weeks from the meeting of the Assembly and this is a matter for congratulation and not a matter for complaint. With these words I support the motion.

**Mian Muhammad Iftikharuddin** (West Punjab : Muslim) : Mr. President, Sir, by bringing this measure before the House, our leaders have done an injustice to themselves, to this House and to our people. To put it mildly it is a dishonest and hypocritical measure though it is shown to be a democratic one. It has condoned in four lines all those steps that have gone against the very spirit of freedom. Sir, our leaders, after taking the heart out of the body-politic of Pakistan, have promised that in future they will let us know or take our consent for the future pin-picks after they have given them. There cannot be a worse measure in the whole life of this House than the nefarious and hated Safety Ordinance which was promulgated a few months ago. So far as we, the people of the Punjab, are concerned, we consider the Safety Ordinance or the Safety Act as synonymous with slavery. The only mass struggle that the Muslim League launched in its history of 42 years was against the Safety Act. It is most unfortunate that our leaders, instead of raising our spirits and heartening us at this critical juncture in the history of our people, have brought back the hated Act. Unfortunately, on account of this step today, the position of the Unionists, the traitors who fought against the freedom movement, stands vindicated. Our leaders may say that this measure has been brought forward not by an alien Government, not by the stooges of the Imperial enslavers, but by our own leaders. But there I must remind them that they have forgotten the history of other nations and the history of our own people in particular.

Sir, even the Unionists at one time enjoyed the confidence of the people and were "leaders of the people". They were elected, as we the members of the Provincial Assemblies were, under the same 1935 Government of India Act, on separate electorate and on the same type of franchise as we were elected in the 1946 elections. In 1944, when they opposed the Muslim League, the Pakistan demand, and the freedom of this sub-continent, they called themselves "the representatives of the people". Yet when in 1944, the Central Muslim League organization ordered the members of the provincial bodies to align themselves boldly with the demand for Pakistan, 70 out of the 90 Muslim members of the Punjab Legislative Assembly disobeyed.

**Mr. President** : Why are you going into this past history ? You should keep to the point.

**Mian Muhammad Iftikharuddin** : All the time I have been to the point ; Mr. Nur Ahmed does give one some encouragement to go off the point sometimes but I have not availed myself of it.

What I mean is that being elected does not entitle us to pass any law that we like. When 70 out of 90 elected members opposed the demand for Pakistan, they said that they were representatives of the people ; they had lost the people's confidence, although, mind you, even the Unionist Party three years earlier had to its credit measures for the betterment of the Kisans and at one time they were quite popular with a section of the Muslim and even of the Hindu population of the Punjab. Therefore, to say that as you have at one time worked for the people, you are all the time going to take steps which would be for the good of the people is very incorrect. It goes against the actual facts of history.

[Mian Muhammad Iftikharuddin]

It has often happened that the progressives of yesterday are the reactionaries of today. Sir, the public charge against the leaders is that they have betrayed the trust that was placed in them that they have gone back on the pledges that they gave to the people. In passing this law let them not feel satisfied that since they were elected members, they can pass any law. Sir, today this law makes all future progress impossible. Any measure that we want the Government to adopt, if it is distasteful to the Government it cannot be put before the people.

Sir, it may be said that the Ordinances that have been passed will never be used, or that they are rarely used. I deny that. They have already been used most ruthlessly and unscrupulously but this is not the time to talk of that. Sir, what is necessary is to have a feeling of freedom. Now, here we have this rope round our necks and the Government says "Don't bother though there is a rope round your neck, we have not yet pulled it". You may pull it at any time or you may never pull it. That is not the point. The point is that the feeling of slavery is there. For long, in some countries for centuries,—a principle has been accepted that no person is to be persecuted, no person is to be detained without trial. Against that simple principle—that accepted maxim; that spirit of democracy—we are going when we adopt this measure and condone the hated Safety Ordinance. I think it is the blackest day in the history of this Legislature—this 6th of January, 1950. We will never come across a more important measure, because it really smothers all future progress. It makes fresh thinking, a new constructive effort, impossible. I would like to point out to my leaders that after the advent of independence the cause of the miseries of our people will not be the misdeeds of the alien masters, but our acts of commission and omission. Now popular criticism or movement will be directed against us.

**Mr. M. H. Gazder** (Sind : Muslim) : May we not adjourn for *Maghrib* prayers, Sir ?

**Mr. President** : (To Mian Muhammad Iftikharuddin) Will you take long to finish ?

**Mian Muhammad Iftikharuddin** : No, Sir, I will be very brief. I think I will take about five minutes more.

**Mr. President** : We have to adjourn for *Maghrib* prayers. You can resume after *Maghrib* prayers.

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The House stands adjourned till 6-50 P.M. for *Maghrib* prayers.

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The House then adjourned till Fifty Minutes Past Six of the Clock for *Maghrib* prayers.

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The Assembly re-assembled at Fifty Minutes Past Six of the Clock after the *Maghrib* prayers, Mr. President (The Honourable Mr. Tamizuddin Khan) in the Chair.

**Mian Muhammad Iftikharuddin** : Sir, I was saying that we have today after achievement of freedom no one to blame other than ourselves for the miseries, unhappiness and the sad plight of our people and as such since we happen to be—or some of us happen to be—their leaders, the people's complaints, their criticism naturally will be directed against us and if we also enthrone ourselves as judges of that criticism, we expect too much from ourselves and too much from human nature. In accordance with the accepted principles of the world an alleged culprit

cannot also be the judge. Sir, the executive or the leadership which would come under criticism can make mistakes. We have seen even in two and a half years' history that the highest leadership can make mistakes. We have seen that the entire assembly of a province, which had led and was in the forefront in the fight for freedom was discovered to be corrupt and incapable of leading the people or making laws for them. We have seen that the highest authority and the biggest leader of another province was suspected to be corrupt and incapable of leading his people. We are going to see, perhaps, some other Ministers coming under the same category. Therefore, to expect us to be such impartial judges of criticism directed against us—is expecting too much from ourselves. The right way of dealing with people whose action, consciously or unconsciously, is directed against the interests of the people is to try them in open courts which is the accepted method of bringing to book criminals. It may be said that everybody cannot be covered under the ordinary law. As a matter of fact, Sir, what I would have expected of our leadership is to bring measures to tone down the stringent and stiff laws that the British, as an alien Government, had promulgated in order to rule over such a vast population and which they successfully did for such a long time. Is it not somewhat surprising that the alien rulers could rule over us for nearly 200 years with the help of that ordinary law (until, a few years ago, when our struggle reached a pitch that they were unable to control us with the ordinary but nevertheless extraordinarily stringent and stiff laws) our leadership has not the confidence in themselves to be able to rule with the help of those laws. The people do not hate them as they hated their foreign rulers. If foreign rulers could rule us by those laws for two centuries, it may be possible for the present leadership to rule us for the next two—or is it going to be 10—years, before the new constitution is promulgated. Sir, I think that we in this matter are committing the greatest blunder of our time in enforcing a law which we consider to be synonymous with slavery. Some have blamed our leaders for making advances to unpopular anti-democratic and treacherous sections of the people of Pakistan, particularly, the Unionists. Coming as I do from the Punjab, I cannot forget that name and I cannot forget the role of that organisation against our struggle. People have blamed our leadership for befriending them. Had it been just that some of the Unionists who out of expediency, had now turned towards the League were accepted as Leaguer that was bad enough.

**Mr. President :** How do you think all these things are relevant ?

**Mian Muhammad Iftikharuddin :** Sir, it is relevant.

**Mr. President :** I do not see the relevancy of it. Moreover you have said that once before also, and you are repeating your argument.

**Mian Muhammad Iftikharuddin :** I will conclude this point. The pity is that our leadership itself has turned Unionist. I have the same feeling today, when this measure is brought, against them, I confess with due respects (and I respect some of the Ministers not only that I have affection for some of them and I am saying this quite honestly) as I had against the Unionists.

**The Honourable Mr. Liaquat Ali Khan (East Bengal : Muslim) :** God help us.

**Mian Muhammad Iftikharuddin :** And help me too with this leadership. Sir, it is most unfortunate that by those very hands we are being tied today hands that undid the knots of slavery. It may be said that

[Mian Muhammad Iftikharuddin†

the House has not enough time at its disposal to go back and look into the Ordinances that have been promulgated during the last two and a quarter years. Sir, when we can pass seven Bills in a day—in fact in an hour and a half's sitting—cannot we, I ask, by sitting two months, by working for eight hours a day, pass and go through all these measures. I am sure it will not take two months, not even two weeks. I know our Prime Minister and our Cabinet are very busy, but surely when the Prime Minister—the Prime Minister of the biggest Muslim State of the world—can find two months in a year to pay two visit to the Court of His Most Christian Imperial Majesty, I am sure, he could find two weeks to go into the old undemocratically promulgated laws and give them a democratic sanction. I mean to those which are democratic. Sir, if we have time to go into, as I think we shall tomorrow, the Coconut Bill or Mr. Nur Ahmed Bill on films, on “sexy films” to use his words, I am sure, Sir, we could have had time to go into those ordinances which have been promulgated during the last two years and a quarter. Before concluding I would like to say and repeat that it is the darkest day in the history of this Legislature and the people of Pakistan will not forget during coming years what happened today. There is going to be a rope tied round their necks. They will not be able to express themselves, with freedom and liberty. It may be said that if the present leadership is doing all that, and when there is no alternative leadership what is to be done? I for one have not backed up any alternative leadership, though there are many disgruntled and dissatisfied elements in the country.

**The Honourable Chaudhri Nazir Ahmad Khan** (West Punjab : Muslim) : Not openly.

**Mian Muhammad Iftikharuddin** : Not openly or secretly as Chaudhri Nazir Ahmad has said. He knows that I do things openly and have suffered and shall suffer for them. I have nothing to hide. If I can criticise my leadership with the vehemence with which I am doing today, surely I can align myself with the dissatisfied and disgruntled also. If I can face the most experienced and oppressive imperialism in the world history, when the Honourable member was a Khan Bahadur, and got *murrabas* of lands from the British Government, surely I can face my own leadership.

**Mr. President** : This is a personal remark, and as such objectionable.

**Mian Muhammad Iftikharuddin** : Sir, he made a personal remark and therefore the reply had to be personal. I am sure you will do me that justice.

However, let me mention in passing, because the Prime Minister was pleased to say that he would like some of us to be in jail.

**The Honourable Mr. Liaquat Ali Khan** : I did not say that. I would not like you to be in jail. I think you are more useful outside than inside.

**Mian Muhammad Iftikharuddin** : Surely, you said so. I know I am more useful outside than inside, and I am also certain that I will be more useful than you, if a day came, and I sat there instead of where I am sitting. Didn't you say that you would like some of us in jail?

**The Honourable Mr. Liaquat Ali Khan** : No. I did not say that.

**Mian Muhammad Iftikharuddin** : Then I would not refer to that.



**The Honourable Mr. Liaquat Ali Khan :** I do not believe in professions. I believe in actions.

**Mian Muhammad Iftikharuddin :** When you take that action, you will remember my words of today that I loathe going to jail, as I loathe death, but I will face death, as no doubt, I have faced and am going to face jail, if it comes in the way of doing my duty. The newly appointed Minister for Industries from the Punjab should bear in mind that this has been my past political practice. Since the Prime Minister is hinting at action, it was necessary to make it clear, otherwise it is not for the purpose of going to jail that I go to jail. I am not a sentimentalist. Jail is a living death and I will face death itself if need be, in the interests of my people.

**The Honourable Mr. Liaquat Ali Khan :** Have no such fears.

**Mian Muhammad Iftikharuddin :** Well, you are making my speech personal which I do not want. I conclude by saying that, I hope, the leadership will realise the gravity of the measure that they are bringing and realizing that, as a great leadership does some time, they will take the necessary steps to rectify that error and will bring back democracy to this unhappy land.

**The Honourable Chaudhri Nazir Ahmad Khan :** Mr. President, Sir, I have listened with very great care and attention to the speeches of my honourable friends Sardar Shaukat Hyat Khan and Mian Iftikharuddin. Mian Iftikharuddin has been pleased to say that the 6th of January will be a memorable day because according to him it is the darkest day in the history of Pakistan. May I tell him, Sir, that I also consider this to be a memorable day because having had the privilege to listen to his irrelevant speeches in the House, I consider that this is the most irrelevant speech he has made today and, therefore, it will certainly be a memorable day.

Sir, the matter under discussion is clause 4 of a Bill which has been introduced by the Honourable the Law Minister and the discussion which was started by my Honourable friend Sardar Shaukat Hyat Khan is about the ordinances passed before the 31st day of December are not to be brought before the Federal Legislature. This was the real objective of my learned friend, but while speaking on this motion both of my friends have gone wide off the mark and have indulged in arguments which have absolutely no relation to the facts. What are the facts ? The facts are that there are two kinds of ordinances in Pakistan. One kind of ordinances is passed by the Centre, while the other ordinance is passed by the Provincial Governments. A lot has been said about oppression, curtailment of civil liberties, dishonest measures, and so on and so forth, but my learned friends conveniently forget that in the provinces all the ordinances that they are referring to were put to the vote of the popular House, that is to say, the Legislature of that Province.

**Sardar Shaukat Hyat Khan (West Punjab : Muslim) :** To the Unionists ?

**The Honourable Chaudhri Nazir Ahmad Khan :** No, Sir, after partition and in Pakistan.

**Sardar Shaukat Hyat Khan :** I question that.

**The Honourable Chaudhri Nazir Ahmad Khan :** If your memory is short, I am afraid I can't help you.

In the North-West Frontier Province this ordinance was put to the vote of the legislature and it was unanimously passed. In East Bengal

[The Hon'ble Chaudhri Nazir Ahmad Khan]

also the same thing happened. Therefore, I really do not see the point sought to be made out by my Honourable friends as to what is really troubling their minds. Their sole case is that such laws should be put to the vote of the popular assembly....

**Mian Muhammad Iftikharuddin :** What is more, such laws should not be there at all.

**The Honourable Chaudhri Nazir Ahmad Khan :** I hear them say that there is no democracy in Pakistan ; that this is a Government by repression and on the sweet-will of a few leaders whom you choose to call the executive. I am trying to show that the facts quoted by my Honourable friends are entirely incorrect.

Now, let us have a look at the Central Legislature and the ordinance that has been passed by the Central Government. Can my friends—I am confident that they cannot—quote any instance of any person who has been put behind bars under this central ordinance ? It is all very well to talk in the air like a lawyer who does not know the facts of the case. They say that there is a rule of ordinances in Pakistan. Do they forget that there is an emergency in the land ? Do they...

**Mian Muhammad Iftikharuddin :** As long as you are there.

**The Honourable Chaudhri Nazir Ahmad Khan :** Do they not know that there is an emergency through which we are passing ? Can they honestly say that the Government must divest itself of all emergency powers ?

**Mian Muhammad Iftikharuddin :** Yes. It is a popular Government

**The Honourable Chaudhri Nazir Ahmad Khan :** They know very well that the calling of a legislature is a cumbersome procedure. It entails a good deal of time. An eventuality may arise in which the Government may be compelled to take action. Unless there is some legal power in the hands of the Government, how is the Government going to maintain law and order in the country in an emergency ? May I remind my Honourable friends that at one time there was a Public Safety Act in the Punjab ? This was passed by the British bureaucrats before partition.

**Sardar Shaukat Hyat Khan :** We fought and you apologised.

**The Honourable Chaudhri Nazir Ahmad Khan :** You alone did not go to the jail. I went with you.

**Sardar Shaukat Hyat Khan :** You became ill and came out.

**The Honourable Chaudhri Nazir Ahmad Khan :** No, Sir.....

**Sardar Shaukat Hyat Khan :** When we were in jail, you were meeting the Governor.

**The Honourable Chaudhri Nazir Ahmad Khan :** This is a lie.

**Sardar Shaukat Hyat Khan :** Jail records will show this ; Quaid-i-Azam's diary will show this.

**The Honourable Chaudhri Nazir Ahmad Khan :** It is a lie that I saw the Governor while others were in jail. I repeat, it is a lie. Let us not be personal.

**Mian Muhammad Iftikharuddin :** As if you have not been personal.

**The Honourable Chaudhri Nazir Ahmad Khan :** I submit that this is the most august House in Pakistan. Let us not lower its prestige by being personal. Let us look at the problem dispassionately. Let us not play to the gallery.

I was submitting, Sir, that in the Punjab the Public Safety Act remained on the Statute Book of the Punjab when my two Honourable friends were Ministers in the Punjab. May I ask them whether they raised their little finger against the Punjab Public Safety Act then ? Did they not send people behind bars under the Punjab Public Safety Act ?

**Sardar Shaukat Hyat Khan :** Read the Cabinet proceedings ; they will tell you.

**The Honourable Chaudhri Nazir Ahmad Khan :** I submit that Cabinet proceedings are not available to me. But my Honourable friends were members of the Punjab Cabinet for a long number of months. All that time the Punjab Public Safety Act was on the Statute Book. Neither in their public speeches nor on any official occasions they raised their finger against that Act. Sir, I have been a student of Zoology. Therefore, I am interested in studying animals. Sir, I have never found during my rather intensive study of Zoology that a lion can change its nature.

**Sardar Shaukat Hyat Khan :** And Khan Bahadurs also.

**The Honourable Chaudhri Nazir Ahmad Khan :** When these so-called *Allah ke Shers* were in charge of the Punjab, their opinion was that the Punjab Public Safety Act was necessary for the maintenance of law and order. Today I find a great change has come over these "lions" and they think that any ordinance promulgated by the Central Government is a vicious and dishonest thing.....

**Mian Muhammad Iftikharuddin :** I led the movement against the Safety Act and you.....

**The Honourable Chaudhri Nazir Ahmad Khan :** Let us not indulge in personal remarks.....

**Sardar Shaukat Hyat Khan :** He is making personal remarks.

**Mr. President :** You have attacked, and you should be prepared to receive attacks.

**The Honourable Chaudhri Nazir Ahmad Khan :** May I submit that I am not personal. I hate to be personal. I am stating facts. Because they are true, they are very distasteful to my learned friends. I can assure, through you, Sir, that it is not my intention to be personal.

Now, Sir, how is it that this change has come over these so-called lions. For one and a half year my Honourable friend Sardar Shaukat Hyat Khan was a very important Minister in the Punjab.....

**Sardar Shaukat Hyat Khan :** Eight months.

**The Honourable Chaudhri Nazir Ahmad Khan :** He claimed to be the leader of the Punjab and the leader of the Muslim League fighting for independence and freedom. May I, Sir, in all humility, ask him whether during the period that he was in power, whether he did anything to get the Punjab Public Safety Act repealed ?

**Sardar Shaukat Hyat Khan :** Ask for the Cabinet proceedings.

**The Honourable Chaudhri Nazir Ahmad Khan :** I am a Punjabi. I was living in Lahore when he was a Minister. I do not know of any single instance, public or private, when my Honourable friend had the courage of conviction to stand up and say "I shall resign my post as a Minister because I do not believe in these emergency powers". How is it that today we find him declaring himself a champion of all the oppressed of Pakistan and assuming to himself a status which at one time the people of the Punjab snatched away from him ?

[The Hon'ble Chaudhri Nazir Ahmad Khan]

I submit, Sir, that we find this to be crux of the objection against these ordinances. I think the boot is on the other leg. Instead of calling us dishonest, it is better to search your own heart and see whether you are playing an honest game. When you were in power, you never raised a voice against this ordinance. Now that you are out of power, you want to regain power by so playing to the gallery.

Let us come back to the problem under consideration. I submitted earlier that these are emergency powers. I also submitted that a Government must have some emergency powers to act swiftly and speedily in an emergency. We have to think as to whether we are not passing through an emergency. My friends there can conveniently forget facts. Therefore, I am not appealing to them. I think there is no hope for them. I am appealing to the other Honourable members of the House.

What is happening all around us. That is the question before us. If they dispassionately and honestly think that we are passing through a cold war and want to guard against the emergency, then no sensible man can deny that the Government should not have emergency powers to exercise when and if an emergency arises. The main consideration with regard to these emergency laws will always be, what is the application of these laws? If these laws are used repressively as a measure of vengeance against persons whom some of the executive do not like, then I am prepared to admit that these laws are very objectionable. Therefore, we shall have to go further into the fact as to what class of people have been put behind prison bars on account of these emergency laws and here again may I aid the memory of my learned friend, Sardar Shaukat Hyat Khan, that in the very Punjab about which he has been talking so much, certain people were put behind the bars in pursuance of this emergency measure, the Public Safety Act, and at that time my Honourable friend did not raise any objection. He thought that it was perfectly legal.

Now, so far as these two classes of ordinances are concerned, Central and Provincial, I am afraid that most of the talk indulged in by my Honourable friend is entirely irrelevant and off the mark. We are not concerned here with legislation in a province nor are we concerned with the Acts of Provincial Governments. We are dealing with a measure which the Centre wants to introduce and therefore we should confine the debate to the issue before us.

**Mian Muhammad Iftikharuddin :** The Central Government is concerned with the freedom, whether it be in a village or in a province.

**The Honourable Chaudhri Nazir Ahmad Khan :** I submit, Sir, this Assembly is not a platform from which public speeches can be made. I think we should here confine ourselves to the issue before us, and try to be relevant and being relevant, you will find that we in this discussion are concerned merely with the Central ordinances. I submit that although it has been said that lots of people are behind the bars, I challenge my Honourable friends to quote one instance, one individual instance in which even one person has been put behind the bars in pursuance of the Central ordinance.

**Mian Muhammad Iftikharuddin :** You should know better.



**The Honourable Chaudhri Nazir Ahmad Khan :** It is all very well to champion the cause of the poor and the down-trodden people, but what are the facts. The facts are that this is purely an emergency measure in the hands of the Government to be used if and when an opportunity arises. It has not so far been used and, therefore, all this hue and cry against this ordinance or this legislation is, I submit, besides the point.

Now, Sir, my Honourable friend Mian Iftikharuddin said that he does not want a rope hanging round his neck. I can assure him that we shall give him the longest rope and if he thinks that at some time it is necessary for him to hang himself by the end of that long rope, it will be his choice and we shall not be in that picture.

It has also been said that in some other countries it has been laid down that all persons accused of certain offences are placed before courts of law, I wish my Honourable friend had cited the names of such countries. This general sort of statement does nobody any good. I know that it is not and will not be possible for him to quote an instance of one single country which has given up the well-known principle that a Government must have an emergency measure to act in an emergency. Therefore, when he says that in some countries people are always brought before a court of law for an open trial, I submit that this also is against the facts. In any case he has not been able to quote an instance of any single country to which he has referred. If he has referred to some country which is very dear to him, then, I do not know what is happening there. Perhaps he has more knowledge than I have.

Therefore, Sir, the only and the very narrow issue before us is, are we going to support this measure or not. It has been found that in this clause 4, a provision has been made that such ordinances by the Centre—I am not speaking of provincial matters and I maintain that all reference to them is quite irrelevant—as are promulgated by the centre after 31st December, 1949, should be placed before the legislature within a specified time—I submit that the only issue before us is whether this measure should be passed or not. I hope that when the House consider this dispassionately, they will, with one voice, support it.

Before I resume my seat, I may submit that we all claim to be the followers of the Quaid-i-Azam. My appeal to my Honourable colleagues is that they should also follow the Quaid-i-Azam's precepts and remember his historic words, "The future of Pakistan lies in unity, discipline and faith."

**Mian Muhammad Iftikharuddin :** Not in safety ordinances.

**The Honourable Chaudhri Nazir Ahmad Khan :** I appeal to them and I call upon them to be united at this critical juncture of the State and to maintain certain amount of discipline, because without discipline they really cannot serve the cause of Pakistan. I hope that they will also in due course change their opinion about these ordinances and if they act honestly, they will support the measure.

**Dr. Mahmud Hasain (East Bengal : Muslim) :** Sir, I move.

"That the question be now put."

**Mr. President :** Unless Mr. Mandal exercises his right of reply.

**The Honourable Mr. J. N. Mandal :** I do not want to speak.

**Mr. President :** I do not think there is any objection to the motion.

"That the question be now put."

(Voices : No.)

**Mr. President ;** The question is :

"That the question be now put."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

**Prof. Raj Kumar Chakraverty** (East Bengal : General) : Sir, I have an amendment to clause 4.

**Mr. President :** . I think there is a misunderstanding. So far as this Bill is concerned, I do not think any member has tabled any amendment. Some members seem to be forgetting the fact that this is a new Bill. It was published in the Gazette some days back and it is not the old Bill. Some amendments were tabled to the old Bill, but so far as this Bill is concerned I do not find any amendment at all.

**Prof. Raj Kumar Chakraverty :** Sir, it is the same Bill.

**Shri Dharendra Nath Datta** (East Bengal : General) : The clauses are the same.

**Mr. President :** All the clauses are not the same. Look at clause 5 ?

**Shri Dharendra Nath Datta** May I know, Sir, when the old Bill was withdrawn and when this new Bill was laid on the Table of the House ?

**Mr. President :** This Bill was published in the Gazette on the 3rd of January, 1950.

**Shri Dharendra Nath Datta :** We have not got the copy of the Gazette.

**Mr. President :** It was also circulated to the Members and you too must have got a copy of it. As there seems to be some confusion in the minds of some of the Members, I would ask the Mover of the Bill whether he has any objection to the amendments to the old Bill being moved as short notice amendments. The clauses are almost the same.

**The Honourable Mr. J. N. Mandal :** If you allow the amendments to be moved, I have no objection.

**Mr. President :** I also want to permit the amendment for this reason that so far as this Bill is concerned, it was published only on the 3rd January, 1950, and it has not been before the public for a sufficiently long time. I allow Mr. Chakraverty to move his amendment.

**Prof. Raj Kumar Chakraverty :** Sir, I beg to move :

"That in clause 4 of the Bill, in the proposed sub-section (3), the words and commas 'after the thirty-first day of December, 1949,' be omitted."

In moving this amendment, I want to congratulate the Government on one point, namely, that this Bill has been brought forward at last, though it was over-due. The rule by ordinances is a very bad rule indeed. This Bill proposes to limit the operation of the ordinances and therefore I welcome it. There may be ordinances for emergencies but they are not meant for normal times. This Bill provides for limiting the life of such ordinances and therefore I welcome it. But the Government Bill is very much defective and that is why I have brought forward my amendment. This Bill applies to ordinances that are promulgated only after the 31st December, 1949, and it does not apply to the ordinances which have been in existence before that date. In other words, the existing ordinances shall continue as good and permanent laws on the Statute-book and we can say nothing against them. As you all know, there have

been drastic ordinances already on the Statute-book, and to some of them reference has already been made by the previous speakers. One of these ordinances is the Public Safety Ordinance. The previous speaker, the Honourable Chaudhri Nazir Ahmad Khan, has referred to emergency. I do not agree with him. Sir, whenever an emergency arises, the Government can promulgate not only one ordinance but a hundred ordinances in the course of one night, nay in one hour. So, why should not the Government put all the existing ordinances before the Legislature and test them? But they would not bring them before the Legislature and content themselves by saying that the emergency still exists. In the Statement of Objects and Reasons printed along with this Bill it is said :

“It is considered proper that Ordinances promulgated hereafter should have a limited life as provided in clause 4. The clause would not affect existing Ordinances which have all arisen out of special conditions”.

That is the justification for not touching the ordinances that were brought into force before the 31st December, 1949. May I know what those special conditions are? We have been here for more than two years. So far as the legislative business is concerned, we have settled down to it and I do not agree with my Honourable friend Chaudhri Nazir Ahmad Khan that the emergency is still continuing. And whenever an emergency arises, he can promulgate a number of ordinances. There is no difficulty about it. The Legislature is meeting every now and then and I do not see the difficulty of bringing forward before this House the ordinances which already exist on the Statute-book. Government have got a very good majority in this House and they are not afraid of passing any law whatsoever. Sir, I do not understand why the Government should fight shy of putting those ordinances before the Legislature. Certainly they are not afraid of the Opposition, which is a small minority. Certainly they are not afraid of our two friends, Sardar Shaukat Hyat Khan and Mian Muhammad Iftikharuddin. So, it is very difficult for me to understand why the Government is fighting shy of bringing these ordinances before the Legislature. It seems to me that some of these ordinances are so bad intrinsically that they would not stand the test of scrutiny in any descent Legislature. That is the reason why they are not bringing those ordinances before the Legislature. We claim that this body is a democratic body. If you do not bring those ordinances before this Legislature, it is tantamount to your saying: “We do not care for the democracy.” We claim that this is a Sovereign body, but not to bring before it the ordinances promulgated before the 31st December, 1949, is to say that the Executive has a supreme power over the Legislature. We claim that this is a representative body and it represents the entire nation, but not to put these ordinances before this legislative body is to say that the nation does not give sanction for them. That is how I read the proposed Bill. I have moved this amendment as a matter of high principle. The principle is that the Executive should not be allowed to usurp the rights of the Legislature when it is in session and I stand by it. I hope my amendment will not be characterised as “mischievous” by any Member of the Treasury Benches. In recent times we have been treated with that sort of epithet but I tell the House that I have moved this amendment because it is a matter of life and death to every citizen of Pakistan.

**Mr. President :** Amendment moved :

“That in clause 4 of the Bill, in the proposed sub-section (3), the words and commas ‘after the thirty-first day of December, 1949,’ be omitted.”

**Sri Kaminim Kumar Datta** (East Bengal : General) : I rise in support of this amendment. Now in placing this Statute, Sir, before the House, one is tempted to say that a gift has been made by the Government with one hand and by the other hand it has been withdrawn, and one is almost inclined to say whether the gift is *bona fide*. Section 42, Sir, of the Government of India Act as adopted by Pakistan is of a very comprehensive character. I would like to read this Section. Section 42 runs thus :—

“42—(1). The Governor-General may, in cases of emergency, make and promulgate ordinances for the peace and good government of Pakistan, or any part thereof, and any ordinance so made shall have the like force of law as an Act passed by the Federal Legislature, but the power of making ordinances under this section is subject to the like restrictions as the power of the Federal Legislature to make laws...”

I need not read the other lines. Clause (2) reads :—

“42—(2). Notwithstanding any restrictions imposed by the preceding sub-section, an ordinance made under this section may authorise expenditure from the revenues of the Federation.”

A reference has been made, while discussing about the matter of the consideration of the Bill, to the power of a Governor in a Province to promulgate ordinances. I think it will be useful to refer to the power of the Governor also to promulgate ordinances, which is enacted in Section 88. The power of the Governor-General to promulgate ordinances is very comprehensive while the power of the Governor of a Province to promulgate ordinances is very limited. Section 88 runs thus :—

“88—(1). If at any time when the Legislature of a Province is not in session.”

The first pre-requisite condition is an important element, which is not applicable in the case of an Ordinance to be promulgated by the Governor-General. The Governor-General has been given the unfettered right whether the Legislature is in session or not. I am not questioning, Sir, the wisdom of this enactment, of Section 42 ; the whole of Section 42 is not before us for consideration at all. As a matter of fact, I myself did sometime think why there was a distinction in the power taken by the Governor-General and the Governor and I may frankly say I was convinced that occasions may arise which may endanger the safety of a State and the Governor-General ought to have wider powers. We then have the caution that while such a wide and comprehensive power has been given to the Governor-General there must be other safeguards : that there may not be any encroachment, Sir, on the right of the people and on the right of the representatives of the people who are sent to the Assembly to look to the interest of the country ; their right may not be interfered with. In the case of a Governor, the first pre-requisite condition is “when the Legislature is not in session”.

Then, again, Sir, there is a further limitation as to the ordinances promulgated by a Governor. It has been laid down in sub-section (2) that :—

“88 (2). An ordinance promulgated under this section shall have the same force and effect as an Act of the Provincial Legislature assented to by the Governor, but every such ordinance—

(a) shall be laid before the Provincial Legislature and shall cease to operate at the expiration of ~~six weeks~~ from the reassembly of the Legislature...”

So, an ordinance promulgated by the Governor of a Province is of a short life and there is a very healthy restriction and limitation put to the continuance of that ordinance : that it must be laid before the provincial Legislature. That is the reason why, in the case of the ordinances promulgated by the Governors of the Provinces, if their continuance was thought to be necessary, regular Acts had to be passed by the Legislature. There was no other alternative but to place the whole ordinance before the Assembly if an enactment was required at all. Simply because, Sir, the principle underlying some Ordinances might have been re-enacted in some provincial Acts we are not in a position here to discuss whether the provincial Acts did embody all the provisions of the ordinances or not ; it is not for us to decide that here at all. There might have been material alterations in the Acts themselves but after all there the healthy provision was adhered to : that the representatives of the people were given an opportunity to consider the pros and cons of all the aspects of the Ordinance and to amend it or to re-enact it in its entirety or not to re-enact it at all. So any analogy, Sir, between ordinances promulgated by the Governor would not help us in deciding as to the advisability of having this amended provision as to Section 42. Section 42, which I have already read vests unrestricted power in the Governor-General to promulgate any ordinance at any time and as Section 42 stands at present any ordinance promulgated by the Governor-General would have the same efficacy and same operation and the same life as an Act passed by the Legislature itself. So, in other words, Sir, ordinances passed before that date—that ominous date, that important date mentioned here—are sought to be added to it—

“An Ordinance promulgated under this section after the 31st day of December, 1949.”

It is a fact known to us all that very important ordinances have been passed before this important starting period of December, 1949, ordinances like the Public Safety Act, ordinances, Sir, providing for the seizing of properties of people ; ordinances for externment of people ; ordinances dealing with the two essential factors affecting the lives of the people and the society, their personal safety and property. I am not, Sir, questioning the fact that no State should have any extraordinary powers. Really, we are living at a time, Sir—now I am not only speaking of our own State but of the affairs all over the world—when as the conditions in the world go the State ought to have some extraordinary powers. But when the State takes extraordinary powers, Sir, at the same time all precautions must be taken that there is no scope left to exercise such powers arbitrarily. And there is no scope left that these extraordinary measures should be given a permanent life. To that, Sir, I do object.

Now what is the effect of this amendment. The effect of this new clause, if it is added to section 42, is to allow Ordinances which have already been passed permanently not Ordinances of a flimsy character—no doubt there are some Ordinances dealing with very petty matters—but there are Ordinances dealing with the liberty of the people, the safety of the people and also dealing with the properties of the people ; so there are Ordinances of very vital character which have already been promulgated prior to 31st day of December, 1949, so a material question would arise—what would happen to those Ordinances—so the effect of this clause will be that it would leave those Ordinances unaffected and those ordinances would remain permanent statutes of Pakistan. So,



[Sri Kamini Kumar Datta]

the position is that unless those who are empowered to put a Bill for the withdrawal of those Ordinances bring in such a measure those Ordinances would remain as the permanent statutes. I think, Sir, the admission of the fact that Ordinances henceforth shall have no permanent character and that Ordinance which may be promulgated hereafter shall be laid before the Federal Legislature and shall cease to operate at the expiry of six weeks from the re-assembly of the Legislature or before the expiry of that period if a resolution disapproving it is passed by the Legislature, upon the passing of that resolution, the admission of this fact shows very clearly that the situation has improved and there is no ground to think that an emergency now exists,—an emergency which would require the vesting of such drastic power in the Governor-General of passing laws without the consent of the representatives of the people. There might have been conditions prevailing when the Ordinance was promulgated before the 31st day of December, 1949, justifying the promulgation of this or these Ordinances but the very fact that now a proposal has been submitted to limit the power of the Ordinances is a clear indication and admission of the fact that the emergency does not exist now. If it is said that an emergency may come henceforth, certainly for that there is the provision there, of promulgating an Ordinance and if the situation would require that, then I am confident that everyone in the House will help the Government in passing proper laws for that, but the very fact that the enactment just before the House has been proposed, is an emphatic admission of the fact and a clear admission of the fact that emergency does not exist. I would like to put this issue for consideration that if the emergency does not exist and if really the extraordinary power of passing an Ordinance vested in the Governor-General is not required to be exercised would it be just and proper to allow the pre-existing Ordinances which were passed under conditions which do not exist now, to remain on the statute book of Pakistan. By eliminating from this clause the words, as proposed by the mover, “after the thirty-first day of December, 1949”, shall leave the clause to read:

“An Ordinance promulgated under this section shall be laid before the Federal Legislature.”

As a Lawyer, Sir, I can say that it is an accepted principle that all declaratory laws have retrospective effect. This is an accepted principle all over the world. I say that it is a declaratory law, declaring the right of the Governor-General as to his passing any Ordinance and if those few words are eliminated the effect would be that Ordinances which are now already existing would also come under the purview of this clause and they will have to be laid before this Legislature, and if they are not placed before this Legislature then they would automatically lapse at the end of the period provided in this section.

Sir, it would appear that the situation has changed and if an emergency arises then an Ordinance can be promulgated; there is ample authority for that vested in the Governor-General. The Governor-General has got the unrestricted and unfettered right. Only by passing this you would be limiting the life of the Ordinance and if it is desired to give it more life then the consent of the representatives of the people must be obtained for that purpose. It is a very healthy convention of law that the consent must be obtained. Indeed section 42 and the amended section 42 was changed since the independence was declared. At one period the life was very short and extended to six months. Then by subsequent adaptation by the Pakistan

Order the period of six months was eliminated and it was made to have effect of a permanent statute and now it appears that the spirit of the whole amendment is that this permanency of an Ordinance is not to be allowed. We welcome it. It is very welcome that the State is taking courage in both hands and the State is thinking that the people of Pakistan are no doubt competent to meet any emergency and the State, therefore, is bold enough to provide that the Ordinance which they promulgate will henceforth have a short life only. The State thus has confidence in the people that if a situation would require any further amendment or any further enactment, the State would be able to have the consent of all the representatives of the people. I would remind that we must not forget what is after all an Ordinance. It is an Act passed without the consent of the people, without the consent of the representatives of the people, only by the judgment of one man. After all his judgment may be wrong and it is an accepted dictum everywhere and it is the accepted dictum of our State also that the judgment of one person—be he the Governor-General or anybody else—shall not be final. He may act for the time but his action must be subject to scrutiny by the representatives of the people and if the people approve of it it would remain otherwise not. When this healthy principle has been accepted in respect of prospective Ordinances we fail to understand that the same principle is not being applied in the case of those Ordinances which have already been promulgated prior to the date of 31st December, 1949. Remembering that these are not flimsy Ordinances but Ordinances dealing with the question of the safety of the State no doubt but the safety and the liberty of people and their property I feel that they should also be subject to the same provision as prospective Ordinances. With these few words I would like to place the amendment for the acceptance of the House.

**Shri Dharendra Nath Datta :** Mr. President, Sir, the only point in the amendment is this that an ordinance promulgated by the Governor-General shall have the same duration as an Act of the Legislature, that it shall be placed before the Assembly and shall be assented to by the Assembly. If we look into the Government of India Act, during the British regime, we find that section 42 of the Government of India Act lays down that if at any time when the Federal Legislature is not in session the Governor-General if he is satisfied that the circumstances exist which render it necessary to take immediate action, then he may promulgate an ordinance, but this ordinance under sub-section (2) of Section 42 of the Government of India Act shall be laid before the Federal Legislature and shall cease to operate at the expiration of six weeks from the re-assembly of the Legislature or, if before the expiration of that period a resolution disapproving it is passed by both the Chambers. . . . The only point just now that we have been discussing was whether the ordinances that have been issued before the 31st December, 1949, shall have the same duration as an Act of the Legislature. Sir, the point at issue is this whether the ordinances shall have the same duration as an Act of the Legislature. Even before, during the British rule, the ordinances issued by the Governor-General did not have the same duration as an Act of the Legislature. The condition was there that they shall be laid before the Assembly and shall cease to operate at the expiration of six weeks from the re-assembly of the Legislature and after that the ordinances shall have no effect. Is there any Government in the world, is there any country in the world—and I hope the whole House will agree with us—that there is no country in the world in which these ordinances issued by the Governor-General or by

[Shri Dharendra Nath Datta.]

the Cabinet shall have the same duration as an Act of the Legislature. In no country in the world we have found it. My esteemed friend, the Honourable Nazir Ahmad Khan, was just telling us—is there any country in the world in which in an emergency the Cabinet, or the Governor-General or the Ruler of the country has no power to issue ordinances? That may be necessary. I ask him, is there any country in the world where the ordinances have the same duration as an Act of the Legislature? There is none. Then, Sir, peculiarly enough, when we attained independence section 42 as adapted by the Pakistan Constitution was amended. How it was amended? It was amended in such a way that the Governor-General took the power to issue ordinances. Not only this the ordinances shall have the same duration as an Act of the Legislature, to our shame. It was not necessary. Mr. President, Sir, in a democratic state there are three organs, the Executive, the Legislature and the Judiciary. It cannot be contended that the Executive shall take away the power of the Legislature. Here, Sir, to our shame, such ordinances as are adapted in Pakistan in such a way that the Executive—I take the Governor-General as the Member of the Cabinet—took away the power of the Legislature. Now, they thought it fit that after 31st December, 1949, ordinances issued by the Governor-General would be of the same duration as an Act of the Legislature. This is what is sought by this Bill, but the ordinances that were passed before the 31st December, 1949, would have the same duration as an Act of the Legislature which is preposterous. No Executive in the world can have the same power as laid down in Section 42 of the Government of India Act, as adapted by Pakistan. What is the necessity of the Executive taking power of the Legislature? There may be a necessity because ordinances deal with emergency. What is the necessity, I want to know from the Members of this House here, of taking the full power of the Legislature as such and as my friend has just said, a Cabinet must have a majority and if he thinks that the provisions in the ordinances should also be passed into law, they can do so immediately, but they should be placed before representatives of the people. Here, we find that in the year 1948—I did not get the figures of the year 1947—27 ordinances had been issued by the Governor-General, and that in the year 1949, 20 ordinances had been issued by the Governor-General and that these forty-seven ordinances would have the same duration as an Act of a Legislature is preposterous. These ordinances deal with the public safety, civil liberties of the people. Obviously, it is giving wide power to the Executive, so that anybody can be detained without trial and can be detained for ever, for an indefinite period. The period is not at all mentioned. Sir, I must tell the House that during the British Rule a detenu was detained without trial, but he had received the treatment of a human being. On the other hand, during our rule, to our shame, a person who is detained without trial is not treated as human being. A detenu used to get a family allowance because he was detained without trial. A detenu who used to be treated as a first-class prisoner, used to receive a maintenance allowance in the jail, but here without any charge, simply on allegations persons are detained and they are called enemies of the State. A person is detained on mere allegations and he is taken as an enemy of the State. Even then an enemy of the State ought to be treated as a human being. But, Sir, we have been telling the Executive that those who had been detained without trial must be treated as human beings and we are told that no person can be detained unless he is an enemy of the State. What shall I say of this Government, I have no language to use. Not only this. Just

the Honourable Mr. Nazir Ahmad Khan was telling : Can you cite a single instance when this Government—meaning the Central Government—has used the powers ? Not only has the power been used in the provinces but in Karachi itself the powers have been used. The other day Prof. Negorani who was doing useful service here . . .

**The Honourable Pirzada Abdus Sattar Abdur Rahman** (Sind : Muslim) : May I raise a point of order ? The action taken was not under any ordinance of the Central Government. It was under a Sind Ordinance with which the present question has nothing to do.

**Shri Dharendra Nath Datta** : Action was taken. He was externed from the city of Karachi. Under Section 3 of Ordinance No. XIV of 1949, the action was taken. He was externed. I have got a copy of the ordinance before me. It reads :

“The Central Government, if satisfied with respect to any particular person, that, with a view to preventing him from acting in any manner prejudicial to public safety or the maintenance of public order, it is necessary so to do, may make an order—

- (a) directing such person to remove himself from Pakistan in such manner, before such time, and by such route, as may be specified in the order ;”

Because he was living in Karachi, the action was taken.

**The Honourable Pirzada Abdus Sattar Abdur Rahman** : It was under the Sind Safety Ordinance. It is applicable in Karachi, my friend forgets that.

**The Honourable Khwaja Shahabuddin** (East Bengal : Muslim) : It was not under the Central Ordinance.

**Shri Dharendra Nath Datta** : Then, how can he be removed from Karachi.

**The Honourable Khwaja Shahabuddin** : I have already pointed out to the Honourable Member that it was under the Sind laws, a number of which are applicable to Karachi.

**The Honourable Pirzada Abdus Sattar Abdur Rahman** : All of them.

**Shri Dharendra Nath Datta** : They are now hiding themselves under the Sind Safety Act. The ordinance applicable in the provinces have been converted into Acts. We also want the ordinances before this House. We shall consider each clause and if we think that they are necessary, we shall pass them into laws. That is the only point. I am told that Sind has got a Safety Act ; Punjab, I hear, has got a Safety Act and N.-W.F.P. has a Safety Act. Probably Baluchistan, too, has an Act. So all the Provinces have got Safety Acts. The language is the same. . . .

**Mr. M. H. Gazder** (Sind : Muslim) : On the model of the Bill circulated by the Government of India.

**Shri Dharendra Nath Datta** : Why do you have them ? There is no necessity. There is no justification. All the provinces thought it necessary to place the ordinances before the legislature and they have been passed into law. Then there was no necessity, no justification for these ordinances because all the provinces have got the Safety Acts. And if all the provinces could do it, why not the Central Ordinances ?

Then, Sir, there is one important ordinance that is provided for the administration of evacuee property in Pakistan and certain matters incidental thereto. Fortunately for us, this ordinance does not yet apply to my province. It may be. . . .

**Mr. M. H. Gazder :** You are very lucky.

**Shri Dharendra Nath Datta :** But there is Democle's sword hanging over us. It can be applied at any moment to my province and before it was applied to my province, what has been done, do you know ? Lists of properties have been made. It is a matter of shame to tell what I am compelled to tell. All the Hindu properties have been treated as evacuee properties.

**The Honourable Khwaja Shahabuddin :** In what manner ?

**Shri Dharendra Nath Datta :** They were surveying. Go to Bengal and you will know that all the Hindu property has been listed as evacuee property. This is being done before the Evacuee Ordinance has actually been applied.

**The Honourable Mr. Liaquat Ali Khan :** What is it, listed or treated ?

**Shri Dharendra Nath Datta :** "Listed" will be a better word. My knowledge of English is very poor. Probably "listed" would be a better expression. All the properties belonging to one community.....

**The Honourable Mr. Liaquat Ali Khan :** Lists have been made ?

**Shri Dharendra Nath Datta :** Lists have been made in anticipation of the application of this ordinance. This is very unfair. Look at the definition of 'evacuee'. Such an important ordinance cannot have the same duration as an Act of legislature. How this Evacuee Property Ordinance has been applied in the city of Karachi my Honourable friend Seth Sukhdev will be able to tell and I would not like to go into the matter.

**The Honourable Khwaja Shahabuddin :** We have already had discussion on that all.

**Shri Dharendra Nath Datta :** No, no. We do not know all the details. So, Sir, I feel that the Government has no justification for not accepting this amendment. Sir, in my amendment also, I have said that ordinances that had been passed by the Governor-General before the 31st December, 1949, shall cease to operate after 31st March, 1950, giving the Government an opportunity to bring these ordinances before the Legislature during the short period. I am quite sure that excepting three or four of these ordinances, the members of the House will pass the other ordinances into law.

Sir, is there any country in the world where ordinances take the power of Acts ? You laugh at it. Executive cannot take away the powers of the legislature. The action of the legislature is also to be carved by the judiciary. There are three organs. The Judiciary carves the legislature and the legislature carves the executive. Here the executive has all powers ; it makes laws and the legislations have the same duration as Acts of Legislature. I hope under these circumstances there will not be any objection to the acceptance of the amendment.

**Seth Sukhdev (Sind : General) :** Sir, I rise to support the amendment moved by my Honourable friend, Mr. Chakraverty. I do not want to go through all what my Honourable friends have said about the Safety Act and about a number of ordinances. I want to show to the members how the Evacuee and Rehabilitation Ordinances and the Transfer of Property (Pakistan) Ordinance have affected the people of Karachi.

**The Honourable Mr. Liaquat Ali Khan :** On a point of order. Are we really discussing those various ordinances that have been promulgated so far ? As a matter of fact, I think more details have been given about them than what should have been necessary for the purpose of the motion which has been moved. But if it is the intention of the House that through



this motion, which is before the House, they are going to discuss the details of all the ordinances, then I submit, Sir, that it is not in order.

**Mr. President :** I know it will not be in order to refer to the details of all the ordinances. I do not say that any reference to the ordinance is irrelevant. Reference may be made to the ordinances, but it should be of a general nature. To go into the details will be irrelevant. Please keep yourself to the motion.

**Seth Sukhdev :** This House should know how these ordinances are going to be made permanent. I know of my Hindu community. Out of a population of 14 lakhs, which was at the time of partition, there is hardly about 2 lakhs here at present.

**Dr. Mahmud Husain :** Because they have withdrawn, not because of these ordinances.

**Seth Sukhdev :** They have been driven out.

**Dr. Mahmud Husain :** Not driven out.

**Seth Sukhdev :** Due to these ordinances, the property of Hindus worth 2 thousand crores has been taken away, and 12 lakhs of people have been driven out from Pakistan, our motherland and they are rotting in India in refugee camps.

**Dr. Mahmud Husain :** On a point of order. Is all this relevant ?

**Mr. President :** I have already said that details would not be relevant. But I think the Honourable Member is just trying to show the nature of the ordinances and their general effect on a particular community, though his facts may be absolutely wrong.

**Dr. Mahmud Husain :** How the driving out of Hindus is relevant under the present motion at all because that is not the part of the ordinance which has been promulgated by the Central Government. That is certainly not relevant.

**Mr. President (to Seth Sukhdev) :** Are you driving at the fact that it is on account of these ordinances that this has happened ?

**Seth Sukhdev :** Allow me to speak and I will prove that due to these ordinances my whole community was driven out from their motherland.

**The Honourable Firzada Abdus Sattar Abdur Rahman :** I challenge this statement. The Hindus were withdrawn much before this ordinance was contemplated here. It was a planned scheme that they would withdraw at such and such time. He is trying to bring in an extraneous matter which is neither the subject of this ordinance nor relevant to the point.

**Mr. President :** Mr. Sukhdev, you are a responsible member of this House. Please be sure of your facts.

**Seth Sukhdev :** I am as sure as anything, but allow me to say something then I will allow my Honourable friends opposite to answer me in return. I have every right to make a speech and you should allow me.

**Mr. President :** Are you referring to any particular ordinance ?

**Seth Sukhdev :** Yes, Sir. The first ordinance the Transfer of Property (Pakistan) Ordinance of 1947 which was promulgated on 10th December 1947. Though it does not apply to my community, it applies to Muslims. I am here to say something about that. Under section 3 of that ordinance all persons whether Pakistanis or non-Pakistanis and whether evacuees or non-evacuees who intended to transfer their properties

[Seth Sukhdev.]

were required to obtain income-tax certificates before transferring their properties. So far so good. But the mischief of the Ordinance lies in section 4 of the Ordinance. Section 4 provides that if any right, title or interest in any property whether moveable or immovable, other than agricultural land, is or had been transferred assigned, limited extinguished after 14th day of August, 1947, an income-tax officer may at any time issue a notice to all or any of the parties to the transaction requiring them to produce within one month the certificate prescribed by section 3 and if such certificate is not produced he may forward a statement to the Collector showing the existing and anticipated tax liabilities of each or any of the said parties.

The Collector shall then proceed to recover the total amount shown in the statement as if it were an arrear of land revenue and for the purpose of the recovery proceedings he may treat the said property as if it belonged to all or any of the persons named in the statement.

The other Ordinance of 1948 which was called the Pakistan (Protection of Evacuee Property) Ordinance promulgated on 18th October 1948.

**Mr. President :** I am sorry that is not relevant. You are to show that these powers are enjoyed by the Governor-General and how your community will be affected or how the interests of the general public will be affected.

**Seth Sukhdev :** I am driving at that.

**Mr. President :** But how are you driving at that ?

**Seth Sukhdev :** Give me a hearing of 5 minutes.

**Mr. President :** The Honourable Member is making his maiden speech and it is very painful to me to interrupt him. But he is persisting in irrelevancy and I am sorry to interrupt him.

**Seth Sukhdev :** The other Ordinance of 1948 was promulgated on the 18th October 1948 and it was called the Pakistan Protection of Evacuee Property Ordinance. This Ordinance is now replaced by Pakistan (Administration of Evacuee Property) Ordinance, 1949. Now section 12 of the former ordinance and section 16 of the latter ordinance state that no creation or transfer of any right or interest in or encumbrance upon any property made in any manner whatsoever by an evacuee or such person on or after the first day of March, 1947, shall be effective so as to confer any right or remedy on any party thereto or any person claiming under such party unless such creation or transfer is confirmed by the Custodian.

Then the Custodian has been directed not to confirm such creation or transfer without an income-tax certificate. Now the Hindus sold away the properties and businesses and took away the moneys and left. There was no law in existence from 1st March, 1947 to 10th December, 1947, making it incumbent on the sellers to obtain certificates. There was no law whereby the purchaser could legally ask the seller to obtain such a certificate. Suppose there is a tax liability against such a person who sold and went away with the money to the other dominion. The refugees came here and invested their money.

**Mr. President :** I am sorry to say that you are absolutely irrelevant and I cannot allow you to go on like this.

**Dr. Mahmud Husain :** The Honourable Member seems to have forgotten one of the ordinances : "Planned Withdrawal of the Hindus to bring about the Downfall of Pakistan Ordinance, 1947."

**Mr. President :** You are not to reply to that remark. Please go on in your own way, but be relevant.....

**Seth Sukhdev :** The refugees came here.....

**Mr. President :** I am not allowing you to read all that.

**Seth Sukhdev :** If you do not want to hear about the Muslims who have invested money here in Pakistan and they are not going to get their property transferred, then this ordinance will play havoc with them.

Then, Sir, I come to my community. In the beginning on account of these unsatisfactory conditions in both the Dominions.....

**The Honourable Mr. Liaquat Ali Khan :** Why not say on account of the killing of the Mussalmans in the East Punjab ? Be quite frank about it.

**Seth Sukhdev :** On account of the killing in the Punjab and other provinces, our community here became panicky and some of them left Sind.

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** Question.

**Seth Sukhdev :** Then, Sir, the refugees coming here, resulted in Hyderabad, Sind and Karachi killing and looting of Hindus.

**Mr. President :** These matters may be relevant on a particular occasion. But how you are going to make them relevant on this Bill passes my comprehension. You can discuss the ordinances in a general way.

**Seth Sukhdev :** If you want that I should speak on the ordinances....

**Mr. President :** Not on the details of the ordinances but you can make a passing reference to the ordinances in a general way.

**Seth Sukhdev :** I have already said something in a general way about the various ordinances. My community has been compelled to leave Sind and seek their protection somewhere else. If you want examples, I can give them.

**Mr. President :** I do not want examples.

**Seth Sukhdev :** In January, 1949, my community waited in a deputation on the Prime Minister and they mentioned to him hundreds of examples where our people were mal-treated and their lands were taken away by force. After this ordinance came, there was wholesale confiscation of their property with the result that hardly 2 lakhs of my community have remained here. My only claim is that this ordinance should not be made a permanent ordinance. Let it come before the Legislature and let each and every clause of it be discussed here. With these words I support the amendment moved by Honourable friend, Mr. Chakraverty.

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** Sir, I had no mind really to speak on this amendment, but certain irrelevant matters raised by my friend Seth Sukhdev which you were pleased to allow because of his maiden speech have compelled me to say a few words. I think my friend has conveniently forgotten, although he must be fully aware of it, that it was a plan of the Congress to withdraw from Sind and other parts of West Pakistan Hindus with a view to bring about a collapse of the administration in Sind as well as in other parts of West Pakistan. It was under that plan, he would remember, that the then President of the Congress, Mr. Acharya Kripalani, came here and gave instructions to all of them that were to withdraw wholesale.

**Seth Sukhdev :** Sir, I rise on a point of order.....

**Mr. President :** It is in reply to what has already been said by you.

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** Although the then President of the Congress came on a goodwill mission into Pakistan—it was about August or September of 1947—wherever he went in Sind, he gave instructions to his people that they should evacuate wholesale and it was in pursuance of that plan that the Hindus were made to vacate Sind, so that the administration may be paralysed. I might remind my Honourable friends about the complaints that the Sindhi refugees had been making in India. They have been writing letters to us that it was under the Congress pressure that they had left Pakistan. They have been suffering because of the Congress and they have been cursing them all over India.

Now, coming to the amendment, I might remind the Mover of this amendment that we are sitting here today as a Constituent Assembly and not as a Legislature. They are as good a member of this House as we are and they have a right to move a motion or a Bill as any member of the Government. There are no Government days or private days in this House. Therefore, if my Honourable friend thought that since August 15, 1947, this was an unjust piece of enactment which was remaining in the Government of India Act after the adaptation, it was his duty to send a notice of amendment and move a Bill in the Constituent Assembly. The fact that two years have elapsed and they had been sleeping all this time goes to show that they also considered it very necessary that any emergency laws that are passed should remain as a permanent piece of law on the Statute-book of this country. And now when the Honourable the Law Member has realised that the time has come when we should make a change instead of feeling grateful for it, the Honourable Member gets up and says that this was a very wrong enactment which has been going on for two years.

With regard to the other point raised by him that this is a permanent law and there is no remedy whatsoever to change it, there also he is wrong because in the Legislature they can move either a Bill to cancel any one of these ordinances or they can move a resolution which, if carried in this House, will compel the Government to bring a legislation to cancel any one of these ordinances. Therefore, my friends are very much in the wrong when they say that it is a permanent piece of legislation which will remain on the Statute-book without any remedy to cancel it or to change it.

Finally, I would submit that my Honourable friend's amendment does not really serve the purpose for which he has moved it. Even if they do away with the words '31st day of December, 1949' it does not help them in any way.

**Prof. Raj Kumar Chakraverty :** Then accept it.

**The Honourable Pirzada Abdus Sattar Abdur Rahman :** There is no question of accepting it because there is another amendment which seeks to bring in legislation before the 31st March. If you take away the words '31st December, 1949', it will mean from the day this law comes into effect, whatever ordinance is passed must be placed before the Legislature. There is no retrospective effect unless you specifically provide for it. Therefore, this amendment is useless and I oppose it.

**Mr. President :** The question is :

"That in clause 4 of the Bill, in the proposed sub-section (3), the words and commas 'after the thirty-first day of December, 1949' be omitted."

The House then divided :

**AYES—12**

Mr. Prem Hari Barma.  
Mr. Dharendra Nath Datta.  
Mr. Kamini Kumar Datta.  
Prof. Raj Kumar Chakraverty.  
Mr. Sris Chandra Chattopadhyaya.  
Mr. Bhupendra Kumar Datta.

Mr. Jnanendra Chandra Majumdar.  
Mr. Dhanenjoy Roy.  
Mr. Bhabesh Chandra Nandy.  
Mr. Harendra Kumar Sur.  
Mr. Akshay Kumar Das.  
Seth Sukhdev.

**NOES—20**

Maulana Md. Abdullah-el Baqui.  
Maulana Mohd. Akram Khan.  
Moulvi Ebrahim Khan.  
The Hon'ble Mr. Fazlur Rahman.  
Mr. Shahoodul Huque.  
Dr. Ishtiaq Husain Qureshi.  
The Hon'ble Mr. Ghulam Mohammed.  
The Hon'ble Mr. Liaquat Ali Khan.  
Dr. Mahmud Husain.  
The Hon'ble Dr. A. M. Malik.

Mr. Nur Ahmed.  
Mr. Serajul Islam.  
The Hon'ble Khwaja Shahabuddin.  
Mr. A. B. M. Husain.  
The Hon'ble Mr. J. N. Mandal.  
The Hon'ble Choudhri Nazir Ahmed Khan.  
Dr. Omar Hayat Malik.  
The Hon'ble Khan Sardar Bahadur Khan.  
The Hon'ble Pirzada Abdus Sattar Abdur Rahman.  
Mr. M. H. Gazder.

The motion was negatived.

**Mr. President :** Any other amendment ?

**Shri Dharendra Nath Datta :** I have got an amendment, Sir. I move :

"That in clause 4 of the Bill, after the proposed sub-section (3) of Section 42 of the Government of India Act, 1935, the following new sub-section be inserted—

"(4) All ordinances promulgated under sub-section (1) between the fifteenth day of August, 1947, and the thirty-first day of December, 1949, shall cease to operate after the 31st day of March, 1950."

I have said what I had got to say. I do not like to inflict any further speech about this amendment.

**Mr. President :** Amendment moved :

"That in clause 4 of the Bill, after the proposed sub-section (3) of Section 42 of the Government of India Act, 1935, the following new sub-section be inserted—

"(4) All ordinances promulgated under sub-section (1) between the fifteenth day of August, 1947, and the thirty-first day of December, 1949, shall cease to operate after the 31st day of March, 1950."

**The Honourable Mr. J. N. Mandal :** Sir, I oppose the amendment.

**Mr. President :** The question is :

"That in clause 4 of the Bill, after the proposed sub-section (3) of Section 42 of the Government of India Act, 1935, the following new sub-section be inserted—

"(4) All ordinances promulgated under sub-section (1) between the fifteenth day of August, 1947, and the thirty-first day of December, 1949, shall cease to operate after the 31st day of March, 1950."

The House then divided :

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Mr. Prem Hari Barma.  
Mr. Dharendra Nath Datta.  
Mr. Kamini Kumar Datta.  
Prof. Raj Kumar Chakraverty.  
Mr. Sris Chandra Chattopadhyaya.  
Mr. Bhupendra Kumar Datta.

Mr. Jnanendra Chandra Majumdar.  
Mr. Dhanenjoy Roy.  
Mr. Bhabesh Chandra Nandy.  
Mr. Harendra Kumar Sur.  
Mr. Akshay Kumar Das.  
Seth Sukhdev.



## NOES—20

Maulana Md. Abdullah-el Baqui.

Maulana Mohd. Akram Khan.

Moulvi Ebrahim Khan.

The Hon'ble Mr. Fazlur Rahman.

Mr. Shahoodul Huque.

Dr. Ishtiaq Husain Qureshi.

The Hon'ble Mr. Ghulam Mohammed.

The Hon'ble Mr. Liaquat Ali Khan.

Dr. Mahmud Husain.

The Hon'ble Dr. A. M. Malik.

Mr. Nur Ahmed.

Mr. Serajul Islam.

The Hon'ble Khwaja Shahabuddin.

Mr. A. B. M. Husain.

The Hon'ble Mr. J. N. Mandal.

The Hon'ble Choudhri Nazir Ahmed Khan.

Dr. Omar Hayat Malik.

The Hon'ble Khan Sardar Bahadur Khan.

The Hon'ble Pirzada Abdus Sattar Abdur Rahman.

Mr. M. H. Gazder.

The motion was negatived.

**Mr. President :** The question is :

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clauses 5 and 6 were added to the Bill.

**Mr. President :** The Honourable Mover of the Bill stated at the outset that he intends that clause 7 should be deleted. The only way that this can be done is by not accepting the clause.

**Mr. M. H. Gazder :** I am going to oppose it.

*Several Members :* Oppose what ?

**Mr. M. H. Gazder :** Oppose the clause no. 7.

(Mr. M. H. Gazder then resumed his seat.)

**Mr. President :** The question is :

"That clause 7 stand part of the Bill."

The motion was negatived.

Clauses 8 to 10 were added to the Bill.

**Dr. Mahmud Husain :** Sir, I move :

"That clauses 8, 9 and 10 be re-numbered as 7, 8 and 9 respectively."

**Mr. President :** The question is :

"That clauses 8, 9 and 10 be re-numbered as 7, 8 and 9 respectively."

The motion was adopted.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Mr. J. N. Mandal :** Sir, I move :

"That the Bill, as amended, be passed."

**Mr. President :** The question is :

"That the Bill, as amended, be passed."

The motion was adopted.

(Mr. Gazder did not move his Bill).

**Mr. President :** The House stands adjourned till 10-30 A.M. on the 18th instant.

The Assembly then adjourned till Half Past Ten of the Clock on Wednesday, the 18th January, 1950.